

WSR 08-24-004
PERMANENT RULES
PARKS AND RECREATION
COMMISSION

[Filed November 20, 2008, 10:32 a.m., effective December 21, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The amendments update the commission's rules on boating accident reporting by providing technical updating needed to bring the rules into compliance with federal boating accident reporting requirements. The amended rules will increase the current accident reporting threshold from \$500.00 to \$2,000.00.

Citation of Existing Rules Affected by this Order: Amending chapter 352-70 WAC, The state boating accident reporting program, WAC 352-70-020, 352-70-030, 352-70-035, 352-70-040, 352-70-050, and 352-70-060.

Statutory Authority for Adoption: Chapter 79A.05 RCW, Parks and recreation commission, including RCW 79A.05.030 and 79A.05.070 and chapter 79A.60 RCW, Regulation of recreational vessels.

Adopted under notice filed as WSR 08-20-003 on September 17, 2008.

Changes Other than Editing from Proposed to Adopted Version: In WAC 352-70-020(5) the proposed change in text: "for recreational use" has been deleted. In WAC 352-70-050(1) the word "or" has been replaced with "and."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 4, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 13, 2008.

J. M. French
 Chief of Policy Research
 and Program Development

AMENDATORY SECTION (Amending WSR 01-02-021, filed 12/21/00, effective 1/21/01)

WAC 352-70-020 What words and phrases are used in the state boating accident reporting program? Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter.

(1) "Commission" means the Washington state parks and recreation commission.

(2) "Operator" means an individual who steers, directs, or otherwise has control of a vessel that is underway or exercises actual authority to control the person at the helm.

(3) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(4) "Use" means operate, navigate, or employ.

(5) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane. However, it does not include inner tubes, air mattresses, and small rafts or flotation devices or toys customarily used by swimmers.

(6) "Waters of Washington state" means any waters within the territorial limits of Washington state.

AMENDATORY SECTION (Amending WSR 01-02-021, filed 12/21/00, effective 1/21/01)

WAC 352-70-030 Which vessels are subject to the state boating accident reporting program? (1) The requirements for reporting boating accidents apply to each vessel used on the waters of Washington state that:

(a) Is used by its operator for recreational purposes; or

(b) Is required to register in accordance with chapter 88.02 RCW.

(2) This chapter does not apply to each vessel ((~~required to have a certificate of~~) ~~subject to~~ inspection ((~~in accordance with chapter I, Title 46, Code of Federal Regulations~~) ~~under~~ U.S. Code Title 46 Chapter 33 INSPECTION GENERALLY).

AMENDATORY SECTION (Amending WSR 01-02-021, filed 12/21/00, effective 1/21/01)

WAC 352-70-035 Who is required to submit a boating accident report and under what conditions? (1) The operator of the vessel must submit a boating accident report when the vessel or its equipment is involved in an occurrence that results in any of the conditions found in subsection (3) of this section.

(2) When the operator of the vessel cannot submit the boating accident report required by this section, the owner shall submit the report, and, if the owner cannot submit the report, the law enforcement agency that has jurisdiction where the accident occurred shall submit the report on behalf of the owner.

(3) A boating accident report is required to be submitted as specified in subsections (1) and (2) of this section whenever any of the following conditions involving a vessel or its equipment has occurred:

(a) A person dies;

(b) A person is injured and requires medical treatment beyond first aid;

(c) ((~~A vessel, or~~) ~~Damage to~~ vessels and other property ((~~sustain damage totaling~~) ~~totals two thousand dollars or more~~ ((~~than five hundred dollars~~));

(d) A vessel is a complete loss; or

(e) A person disappears from the vessel under circumstances that indicate death or injury.

AMENDATORY SECTION (Amending WSR 01-02-021, filed 12/21/00, effective 1/21/01)

WAC 352-70-040 How does the operator of a vessel report a boating accident? The operator of a vessel involved in a boating accident or the owner of the vessel reporting for the operator must complete and submit a written boating accident report to the law enforcement agency that has jurisdiction where the accident occurred within the specified times listed here:

(1) Within forty-eight hours of the occurrence if a person dies within twenty-four hours of the accident;

(2) Within forty-eight hours of the occurrence if a person is injured and requires medical treatment beyond first aid, or disappears from a vessel; and

(3) Within ten days of the occurrence or death for all other boating accident reports.

(4) All reports must be submitted on the state boating accident report form published by the commission as defined in WAC 352-70-050.

AMENDATORY SECTION (Amending WSR 01-02-021, filed 12/21/00, effective 1/21/01)

WAC 352-70-050 What information must be provided on the state boating accident report form? The state boating accident report form published by the commission must be completed in writing, signed and dated by the person completing it and must contain the following information about the boating accident:

(1) The registration numbers ((or)) and names as documented of each vessel involved.

(2) The name and address of each owner of each vessel involved.

(3) The name of the nearest city or town, the county, the state, and the body of water.

(4) The time and date the accident occurred.

(5) The location on the water.

(6) The visibility, weather, and water conditions.

(7) The estimated air and water temperatures.

(8) The name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator of the vessel ((of the person)) making the report.

(9) The name and address of each operator of each other vessel involved.

(10) The number of persons on board and towed on skis by each vessel.

(11) The name, address, and date of birth of each person who was injured ((or killed)), died, or disappeared.

(12) The cause of each death.

(13) Weather forecasts available to, and weather reports used by, the operator before and during the use of the vessel.

(14) The name and address of each owner of property involved.

(15) The number, availability, and use of personal flotation devices.

(16) The type and amount of each fire extinguisher used.

(17) The nature and extent of each injury.

(18) A description of all property damage and vessel damage with an estimate of the cost of all repairs.

(19) A description of each equipment failure that caused or contributed to the cause of the accident.

(20) A description of the vessel accident.

(21) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other) and the type of accident (capsizing, sinking, fire, explosion, or other).

(22) The opinion of the person making the report as to the cause of the accident including whether or not alcohol or drugs, or both, was a cause or contributed to causing the accident.

(23) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horse power, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year) of the vessel of the person making the report.

(24) The name, address, and telephone number of each witness.

(25) The manufacturer's hull identification number, if any, of the vessel of the person making the report.

(26) The name, address, and telephone number of the person submitting the report.

AMENDATORY SECTION (Amending WSR 01-02-021, filed 12/21/00, effective 1/21/01)

WAC 352-70-060 How is a boating accident report submitted to the commission? The law enforcement agency that has jurisdiction where a boating accident occurs must submit the state boating accident report form within ten days of receiving, or completing the report to the commission at the following address:

Washington State Parks and
Recreation Commission
Boating Programs
((7150 Cleanwater Lane))
1111 Israel Road
P.O. Box 42654
Olympia, Washington 98504-2654

WSR 08-24-005**PERMANENT RULES****PARKS AND RECREATION
COMMISSION**

[Filed November 20, 2008, 10:34 a.m., effective December 21, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These amendments update the commission's rules on public records to bring the rules current with chapter 42.56 RCW, Public Records Act, and update all information necessary to provide the public with access to the agency's public records. The amendments modify payment provisions, make discretionary the public's use of the agency's record request form, provide for appeal procedures if records are denied, correlate the commission's rules to state statute, and make other technical changes.

Citation of Existing Rules Affected by this Order: Repealing WAC 352-40-150; and amending chapter 352-40 WAC (WAC 352-40-010, 352-40-020, 352-40-030, 352-40-040, 352-40-060, 352-40-070, 352-40-080, 352-40-090, 352-40-100, 352-40-110, 352-40-120, and 352-40-130).

Statutory Authority for Adoption: RCW 79A.05.030, 79A.05.070, 79A.05.075, and chapter 42.56 RCW, Public Records Act, including RCW 42.56.040 and 42.56.070.

Adopted under notice filed as WSR 08-20-004 on September 17, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 10, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 12, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 12, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 13, 2008.

J. M. French

Chief of Policy Research
and Program Development

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-010 What is the purpose of this chapter? The purpose of this chapter is to ((ensure compliance by the Washington state parks and recreation commission with the provisions of RCW 42.17.250 through 42.17.320 dealing with public records)) implement the procedural requirements that the Public Records Act, chapter 42.56 RCW, places on state agencies.

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-020 How do we define terms? (1) In accordance with RCW ((42.17.020(36))) 42.56.010(2): "Public record" includes any writing containing information relating to the conduct of ((governmental)) government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(2) In accordance with RCW 42.56.010(3): "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof((;)), and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums,

diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained and translated.

(3) ((Washington state parks and recreation commission)) is a commission appointed by the governor consisting of seven citizens of the state as outlined in RCW 79A.05.015.

(4) "Agency" refers to the staff and employees of the Washington state parks and recreation commission. "State parks" and "the agency" refer to the Washington state parks and recreation commission.

(4) "The commission" means the governor appointed governing board of state parks.

(5) "Headquarters" means state parks administration located in Olympia, Washington.

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-030 Where can ((citizens)) I access ((agency)) state parks' public records? Most public records of the commission and the agency are located at the Olympia headquarters office. Copies of certain records may be accessible at regional offices.

(1) The director and administrative offices are located at the headquarters office at ((7150 Cleanwater Lane, Olympia, WA 98504-2650)) 1111 Israel Road S.W., Tumwater, WA 98501. Mailing address for the headquarters office is:

Washington State Parks and Recreation Commission

P.O. Box ((2650)) 42650
Olympia, WA 98504-2650
360-902-8500
FAX: 360-753-1594
TDD: 360-664-3133

(a) The public affairs office is available to assist with media inquiries and general public information requests.

Phone: 360-902-8561

E-mail: pao@parks.wa.gov

(b) ((The information center is available to assist with questions regarding specific parks, overnight accommodations, recreation programs and seasonal park closures. The center can send you a Request for Public Records form by e-mail or will refer your Request for Public Records form to the public records officer.))

Phone: 360-902-8844

E-mail: info@parks.wa.gov

((e))) The public records officer is available to assist ((in coordination with viewing of or copying agency records)) with public records requests or questions. ((The reception area at the headquarters office in Olympia can refer you to the records officer.))

Phone: ((360-902-8500)) 360-902-8514

E-mail: public.disclosure@parks.wa.gov

(2) Location of regional offices:

Southwest Region

Headquarters Office
11838 Tilley Road S.E.
Olympia, WA 98512-9167
(360-753-7143) 360-956-4800

Northwest Region

Headquarters Office
220 N. Walnut
Burlington, WA 98233
360-755-9231

Eastern Region

Headquarters Office
(2201 N. Duncan Drive
Wenatchee, WA 98801-1007
509-662-0420)
270 9th St. N.E., Suite 200
East Wenatchee, WA 98802
509-665-4319

Puget Sound Region

2840 Riverwalk Drive S.E.
Auburn, WA 98002-8207
(206-931-3907) 253-931-3907

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-040 How is the agency organized and how is it operated? (All decisions involving basic policy are made by the commission.)

Staff at HQ implements those policy decisions.

Staff at each region develop, maintain and steward the state parks according to the policy decisions.) The Washington state park system includes one hundred twenty developed parks, recreation programs, trails, boating safety and winter recreation.

(1) State parks is governed by a commission consisting of seven citizens of the state appointed by the governor.

(2) The director is the commission appointed executive head of the agency.

(3) The deputy director is the chief operating officer.

(4) Regional directors are responsible for management of regional headquarters and parks within their regions.

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-060 ((What are the duties of the public records officer?)) Who do I contact to request state parks' public records? The agency public records officer ((is)), located ((in the)) at headquarters ((administrative office and)) is responsible for:

(1) ((The implementation of the commission's rules and regulations regarding release of)) Receiving and reviewing requests for public records.

(2) Coordinating ((the agency in implementation of state)) agency records management ((techniques)) and agency indexing standards to ensure protection of, and prompt access to, public records.

(3) Implementing and ensuring compliance by the staff with the public records disclosure requirements of chapter 42.56 RCW ((42.17.250 through 42.17.340)).

((4) Assists requestors in coordination and viewing or copying of agency records.))

Mailing address:

P.O. Box 42650
Olympia, WA 98504-2650

Physical address:

1111 Israel Road S.W.
Tumwater, WA 98501

E-mail: public.disclosure@parks.wa.gov

Phone: 360-902-8514

FAX: 360-586-5875

(4) Contact information and our form for requesting public records from state parks are also available on our web site www.parks.wa.gov.

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-070 When can I inspect public records?

Public records are available for inspection ((and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m.)) during regular business hours, Monday through Friday, excluding legal holidays.

It is recommended that you make arrangements in advance as the records that you wish to inspect may not be readily available for immediate inspection.

Agency facilities shall be made available to any person for the inspection of public records except when and to the extent that this would unreasonably disrupt the operations of the agency.

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-080 How do I request ((inspection or copying of)) state parks' public records? ((In accordance with requirements of RCW 42.17.255, that agencies prevent unreasonable invasions of privacy and RCW 42.17.290 that agencies protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied, or copies of such records may be obtained, by members of the public upon compliance with the following procedure:

(1) A request shall be made in writing using agency Form A-374, Public Records Request. The form may be requested and obtained through the mail, by e-mail, or by fax as referenced in WAC 352-40-030. The form shall be presented to the public records officer or to any member of the agency if the public records officer is not available, during customary office hours. The agency may in its discretion fill requests made by telephone, e-mail or facsimile copy (fax). The request shall include the following information:)) Call, mail, e-mail, fax or drop your request at any state park office.

Using our request form, while not required, provides the information we need to assist you and provides you with our copy and mailing fees.

(1) The information that we will need is:

- (a) The name, address and phone number of the person requesting the record;
- (b) The date on which the request ((was)) is made;
- (c) If inspection of the record is requested, the ((time of)) day and ((calendar date on which the requestor wishes)) time you wish to inspect the public records;
- (d) ((An appropriate)) A description ((of)), with as much detail as you can provide, to help identify the record requested;
- (e) A statement that the information will not be used for commercial purposes.

((The public records officer, or agency employee assisting the member of the public making the request, will ascertain that the information requested is not exempt from public inspection and copying as outlined in WAC 352-40-100.))

((3) Requests for identifiable public records will be processed promptly. The agency will respond within five working days of receiving the request by either:

- (a) Providing the record;
- (b) Acknowledging receipt of request and providing a reasonable estimate of the time required to respond; or
- (c) Denying the request.

Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging a receipt of a public record request that is unclear, the agency may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency need not respond to it.

((4)) The agency does not distinguish among persons requesting records and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW ((42.17.260(5))) 42.56.070(9) or other statute ((which)) that exempts or prohibits disclosure of specific information or records to certain persons. ((Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency.))

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-090 ((Is there a cost to view or copy?)) Will I have to pay to view or get copies of state parks' public records? The agency does not charge a fee for the inspection of public records.

The agency will charge an amount necessary to ((reimburse)) recover its costs for ((providing)) producing and mailing copies of records, as provided for by RCW 42.56-120. ((This amount shall be reviewed from time to time by the agency and shall represent the costs of providing copies of public records and for use of the agency's copy equipment, including staff time spent copying records, preparing records for copying, and restoring files. This charge is the amount

necessary to reimburse the agency for its actual costs for copying and is payable at the time copies are furnished. The charge for special copy work of nonstandard public records shall reflect the total cost, including the staff time necessary to safeguard the integrity of these records.))

A list of copy charges is provided with state parks' "Request for Public Records" form, or you can contact the public records officer for ((fee schedule of copying costs)) a list of copy and mailing fees. Payment is required prior to receiving copies of records.

((The public records officer or designee may waive the fee if the cost of preparing a billing for recoverable reproduction costs exceeds the amount to be recovered.)) Charges totaling less than five dollars will be waived.

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-100 Can my request be denied? (1) Yes, a request can be denied if it is for records that are exempt from disclosure under the provisions of ((RCW 42.17.255 and 42.17.310)) the Public Records Act, chapter 42.56 RCW. State parks may also deny access to records, or parts of records, that are exempt from disclosure by RCW 79A.60-210, 79A.60.220, 5.60.060 (2)(a), 46.52.080, 7.69A.030(4) and 13.50.050(3).

((Under the provisions of RCW 42.17.260, the agency will delete identifying details when it makes available or publishes any public record in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by RCW 42.17.260. The public records officer will fully justify such deletion in writing.)) Whenever possible, the agency will make requested records available after exempt information has been deleted or redacted.

((3) Under the provisions of RCW ((42.17.269)) 42.56-070(9), public records requests will also be denied if the purpose of the request is to sell or use the information for commercial purposes.

((4) All denials of requests for public records must be accompanied by a written statement specifying)) If a request is denied, the agency will specify in writing the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-110 ((What is the review process for a denial of a public records request?)) What can I do if I object to the agency's denial to inspect or receive a copy of a public record? You have options. You can:

(1) Request an internal administrative review of the denial for access.

(a) Provide state parks' public records officer with your written request for a review of the decision. Include a copy of the denial or refer specifically to the denial statement in your petition.

(b) The public records officer ((or designee denying the request shall immediately send a copy of the written

response)) will promptly provide the petition and any other relevant information to the director ((of the commission)) or designee to conduct a review.

(c) The director or designee ((shall)) will immediately consider the matter and, within two business days of receiving the petition, or within such time as state parks and the requestor mutually agree, either affirm or reverse ((such)) the denial. If the director or designee has not responded to the requestor by the end of the two business days following denial of ((inspection)) access, then the request is deemed denied.

(2) Ask the attorney general to review the matter. Pursuant to RCW 42.56.530, the attorney general will provide a written opinion on whether the record is exempt.

(3) Initiate an action in the superior court where the record is located. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.-550 at the conclusion of two business days after the initial denial.

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-120 How does the agency protect public records? ((Public records of the agency are located in the Olympia headquarters and each of the regional locations as outlined in WAC 352-40-030. Records are available for inspection and copying at these locations during office hours identified in WAC 352-40-070.)

In order to protect these records, you must comply with))
(1) The following guidelines have been put in place to help the agency protect the public records under its care:

((1))) (a) You may not remove any public record from the agency premises.

((2))) (b) You must have a designated agency employee present while inspecting public records.

((3))) (c) You may not mark or deface a public record in any manner during inspection.

((4))) (d) You may not dismantle public records ((which)) that are maintained in a file or jacket or in chronological or other filing order.

(2) Access to file cabinets, shelves, vaults, or other storage areas is restricted to agency personnel unless other arrangements are made with the public records officer or designee.

(3) State parks follows rules established under RCW 40.14.060 regarding destruction of public records. The destruction of records responsive to a public records request will be delayed until the request is resolved.

AMENDATORY SECTION (Amending WSR 03-11-068, filed 5/19/03, effective 6/19/03)

WAC 352-40-130 How are agency records indexed?
((The)) Records retention schedules established ((by the division of state archives of the office of the secretary of state)) and maintained under the directives of RCW 40.14.060 serve((s)) as an index for the identification and location of agency records ((and includes all records issued before July 1, 1990, for which the agency has maintained an index)).

The records retention schedule indexes records according to the originating program or section, and then the record series title. Each title is further identified by a statement of function or purpose, and the minimum required retention period. With the assistance of the public records officer or designee, the records retention schedule is available to the public for inspection and copying.

A separate index of policy statements as defined in RCW 34.05.010(15) entered after June 30, 1990, ((shall be)) is maintained by the agency.

In addition, the agency has a functional index coding system for physical files, commission policy, administrative policy and agency procedures.

Commission meetings minutes are indexed by year, month, and agenda item number. They are also summarized by topic.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 352-40-150

Adoption of form.

WSR 08-24-006 PERMANENT RULES PARKS AND RECREATION COMMISSION

[Filed November 20, 2008, 10:35 a.m., effective December 21, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: State parks' staff have reviewed the commission rules in response to legislative action during the 2008 session and in consideration of changes to current business practices. The agency has proposed minor changes and corrections to the rules in order to bring the rules up-to-date and to reflect the use of current terminology, to correct references to statute and to provide clarification, corrections and modifications. This rule-making action makes the necessary modifications to park rules and to accurately reflect changes to the agency's business practices and current use rules for specific park sites, employees and volunteers.

Citation of Existing Rules Affected by this Order: Amending chapter 352-12 WAC, Moorage and use of marine and inland water facilities; chapter 352-18 WAC, Background checks for job applicants, volunteers and independent contractors; chapter 352-32 WAC, Public use of state park areas; and chapter 352-74 WAC, Filming within state parks.

Statutory Authority for Adoption: RCW 79A.05.030, 79A.05.070, 79A.05.075, and 79A.05.065.

Adopted under notice filed as WSR 08-20-059 on September 24, 2008, and supplemental notice filed as WSR 08-20-136 on October 1, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 23, Repealed 0.

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Date Adopted: November 13, 2008.

J. M. French

Chief of Policy Research
and Program Development

AMENDATORY SECTION (Amending WSR 04-01-068, filed 12/12/03, effective 1/12/04)

WAC 352-12-030 Annual moorage permits.

(1) Annual moorage permits may be obtained for the period January 1 through December 31, inclusive. Application for such permits may be obtained from most state park managers or rangers, or by writing to the Commission Headquarters, ((7150 Cleanwater Lane,)) P.O. Box 42650, Olympia, WA 98504-2650, or on-line at www.parks.wa.gov.

(2) Annual moorage permits will be issued for a particular vessel. The charge for such permits will be based upon the length of the vessel for which the permit is issued and will be published by state parks.

(3) Annual permits shall be visible from outside the vessel, and permanently affixed to the lower left corner of the vessel's left (port) forward windshield, or to the left (port) outside transom, or if a sailboat, on the forward portion of the left (port) cabin trunk, or as otherwise instructed by the director or designee.

(4) Except as provided in WAC 352-12-060, any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 07-24-001, filed 11/21/07, effective 12/22/07)

WAC 352-18-010 What definitions apply to this chapter? The following definitions apply:

"**Child**" means an individual that has not reached the age of sixteen.

"**Criminal background check**" means a criminal history record information search that may include but is not limited to, the following:

(a) A record check of arrests and convictions through the Washington state patrol;

(b) Fingerprints processed through the FBI to obtain a complete criminal history.

"**Independent contractor**" means any independent for-profit or nonprofit private person or organization with which the commission has or is considering a contractual relationship. In the case of large organizations, the contractor background to be reviewed is that of the organization's principal on-site manager.

"**Job applicant**" means any applicant for a Washington state parks position who is not permanently employed by Washington state parks as of July 24, 2005.

"**Unsupervised access**" means that an individual will or may be left alone with a child or vulnerable adult at any time or any length of time.

"**Volunteer**" means a person who is willing to work without expectation of salary or financial reward.

"**Vulnerable adult**" means adults of any age who lack the functional, mental, or physical ability to care for themselves. As defined in chapter 74.34 RCW "vulnerable adult" includes a person: Found incapacitated under chapter 11.88 RCW; or who has a developmental disability as defined under RCW 71A.10.020; or admitted to any facility; or receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or receiving services from an individual provider.

AMENDATORY SECTION (Amending WSR 07-24-001, filed 11/21/07, effective 12/22/07)

WAC 352-18-020 Who may be subject to criminal background checks? The Washington state parks and recreation commission requires criminal background checks on job applicants, volunteers, and independent contractors who:

(1) Have unsupervised access to children or vulnerable adults; or

(2) Persons who will be responsible for collecting or disbursing agency cash or processing credit/debit card transactions ((for agency sales)).

AMENDATORY SECTION (Amending WSR 07-24-001, filed 11/21/07, effective 12/22/07)

WAC 352-18-022 To whom is the criminal background check information released? (1) Washington state parks will only share pass/fail results of the criminal background check with the supervisor(s) except as provided by chapters ((42.17)) 42.56 and 10.97 RCW.

(2) Washington state parks will follow laws related to the release of criminal history records (chapter 10.97 RCW and RCW 43.43.570) and public disclosure (chapter ((42.17)) 42.56 RCW) when releasing any information.

AMENDATORY SECTION (Amending WSR 07-24-001, filed 11/21/07, effective 12/22/07)

WAC 352-18-024 What do I do if I disagree with the results of the criminal background check? (1) Job applicants, volunteers, and independent contractors who do not pass the criminal background check are entitled to challenge the accuracy and completeness of any information contained in their background check. Contact may be made with Washington state parks human resources or the volunteer programs to review the information.

(2) Disqualified individuals may provide, in writing, justification/explanation with supporting documentation to the state parks director requesting further consideration at ((7150 Cleanwater Drive,)) P.O. Box 42650, Olympia, WA 98504.

AMENDATORY SECTION (Amending WSR 07-03-121, filed 1/22/07, effective 2/22/07)

WAC 352-32-010 Definitions. Whenever used in this chapter the following terms shall be defined as herein indicated:

"Aircraft" shall mean any machine designed to travel through the air, whether heavier or lighter than air; airplane, dirigible, balloon, helicopter, etc. The term aircraft shall not include paraglider or remote controlled aircraft.

"Aquatic facility" shall mean any structure or area within a state park designated by the director or designee for aquatic activities, including, but not limited to, swimming pools, wading pools, swimming beaches, floats, docks, ramps, piers or underwater parks.

"Bivouac" shall mean to camp overnight on a vertical rock climbing route on a ledge or in a hammock sling.

"Campfires" shall mean any open flame from a wood source.

"Camping" shall mean erecting a tent or shelter or arranging bedding, or both, or parking a recreation vehicle or other vehicle for the purpose of remaining overnight.

"Camping party" shall mean an individual or a group of people (two or more persons not to exceed eight) that is organized, equipped and capable of sustaining its own camping activity in a single campsite. A "camping party" is a "camping unit" for purposes of RCW 79A.05.065.

"Commercial recreation use" is a recreational activity in a state park that is packaged and sold as a service by an organization or individual, other than state parks or a state park concessionaire.

"Commercial recreation provider" is any individual or organization that packages and sells a service that meets the definition of a commercial recreation use.

"Commercial use (nonrecreation)" is any activity involving commercial or business purpose within a state park that may impact park facilities, park visitors or staff and is compatible with recreational use and stewardship, limited in duration and does not significantly block/alter access or negatively impact recreational users.

"Commission" shall mean the Washington state parks and recreation commission.

"Conference center" shall mean a state park facility designated as such by the director or designee that provides specialized services, day-use and overnight accommodations available by reservation for organized group activities.

"Day area parking space" shall mean any designated parking space within any state park area designated for daytime vehicle parking.

"Director" shall mean the director of the Washington state parks and recreation commission or the director's designee.

"Disrobe" shall mean to undress so as to appear nude.

"Emergency area" is an area in the park separate from the designated overnight camping area, which the park manager decides may be used for camping when no alternative camping facilities are available within reasonable driving distances.

"Environmental interpretation" shall mean the provision of services, materials, publications and/or facilities, including environmental learning centers (ELCs), for other than basic

access to parks and individual camping, picnicking, and boating in parks, that enhance public understanding, appreciation and enjoyment of the state's natural and cultural heritage through agency directed or self-learning activities.

"Environmental learning centers (ELCs)" shall mean those specialized facilities, designated by the director or designee, designed to promote outdoor recreation experiences and environmental education in a range of state park settings.

"Extra vehicle" shall mean each additional unhitched vehicle in excess of the one recreational vehicle that will be parked in a designated campsite or parking area for overnight.

"Fire" shall mean any open flame from any source or device including, but not limited to, campfires, stoves, candles, torches, barbeques and charcoal.

"Fish" shall mean all marine and freshwater fish and shellfish species including all species of aquatic invertebrates.

"Foster family home" means an agency which regularly provides care on a twenty-four-hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed.

"Geocache" shall mean geocaches, letterboxes, and related activities. Geocaching is an outdoor treasure hunting game in which participants (called "geocachers") use a Global Positioning System receiver or other navigational techniques to hide and seek containers (called "geocaches" or "caches").

"Group" shall mean twenty or more people engaged together in an activity.

"Group camping areas" are designated areas usually primitive with minimal utilities and site amenities and are for the use of organized groups. Facilities and extent of development vary from park to park.

"Hiker/biker campsite" shall mean a campsite that is to be used solely by visitors arriving at the park on foot or bicycle.

"Intimidate" means to engage in conduct that would make a reasonable person fearful.

"Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor and a moped.

"Multiple campsite" shall mean a designated and posted camping facility encompassing two or more individual standard, utility or primitive campsites.

"Obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional right to picket or to legally protest, and acts authorized by a permit issued pursuant to WAC 352-32-165 shall not constitute obstruction of pedestrian or vehicular traffic.

"Out-of-home care" means placement in a foster family home or with a person related to the child under the authority of chapters 13.32A, 13.34, or 74.13 RCW.

"Overflow area" shall mean an area in a park separate from designated overnight and emergency camping areas, designated by the park manager, for camping to accommodate peak camping demands in the geographic region.

"Overnight accommodations" shall mean any facility or site designated for overnight occupancy within a state park area.

"Paraglider" shall mean an unpowered ultralight vehicle capable of flight, consisting of a fabric, rectangular or elliptical canopy or wing connected to the pilot by suspension lines and straps, made entirely of nonrigid materials except for the pilot's harness and fasteners. The term "paraglider" shall not include hang gliders or parachutes.

"Person" shall mean all natural persons, firms, partnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

"Person related to the child" means those persons referred to in RCW 74.15.020 (2)(a)(i) through (vi).

"Personal watercraft" means a vessel of less than sixteen feet that uses a motor powering a water jet pump, as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

"Popular destination park" shall mean any state park designated by the director or designee as a popular destination park because, it is typically occupied to capacity on Friday or Saturday night during the high use season.

"Primitive campsite" shall mean a campsite not provided with flush comfort station nearby and which may not have any of the amenities of a standard campsite.

"Public assembly" shall mean a meeting, rally, gathering, demonstration, vigil, picketing, speechmaking, march, parade, religious service, or other congregation of persons for the purpose of public expression of views of a political or religious nature for which there is a reasonable expectation that a minimum of twenty persons will attend based on information provided by the applicant. Public assemblies must be open to all members of the public, and are generally the subject of attendance solicitations circulated prior to the event, such as media advertising, flyers, brochures, word-of-mouth notification, or other form of prior encouragement to attend.

Alternatively, the agency director or designee may declare an event to be a public assembly in the following cases: Where evidentiary circumstances and supporting material suggest that more than one hundred persons will attend, even where the applicant does not indicate such an expectation; or where there is reason to expect a need for special preparations by the agency or the applicant, due to the nature or location of the event.

"Ranger" shall mean a duly appointed Washington state parks ranger who is vested with police powers under RCW 79A.05.160, and shall include the park manager in charge of any state park area.

"Recreation vehicle" shall mean a vehicle/trailer unit, van, pickup truck with camper, motor home, converted bus, or any similar type vehicle which contains sleeping and/or housekeeping accommodations.

"Remote controlled aircraft" shall mean nonpeopled model aircraft that are flown by using internal combustion, electric motors, elastic tubing, or gravity/wind for propulsion. The flight is controlled by a person on the ground using a hand held radio control transmitter.

"Residence" shall mean the long-term habitation of facilities at a given state park for purposes whose primary character is not recreational. "Residence" is characterized by one or both of the following patterns:

(1) Camping at a given park for more than thirty days within a forty-day time period April 1 through September 30; or forty days within a sixty-day time period October 1 through March 31. As provided in WAC 352-32-030(7), continuous occupancy of facilities by the same camping party shall be limited to ten consecutive nights April 1 through September 30. Provided that at the discretion of the park ranger the maximum stay may be extended to fourteen consecutive nights if the campground is not fully occupied. Campers may stay twenty consecutive nights October 1 through March 31 in one park, after which the camping unit must vacate the overnight park facilities for three consecutive nights. The time period shall begin on the date for which the first night's fee is paid.

(2) The designation of the park facility as a permanent or temporary address on official documents or applications submitted to public or private agencies or institutions.

"Seaweed" shall mean all species of marine algae and flowering sea grasses.

"Sno-park" shall mean any designated winter recreational parking area.

"Special groomed trail area" shall mean those sno-park areas designated by the director as requiring a special groomed trail permit.

"Special recreation event" shall mean a group recreation activity in a state park sponsored or organized by an individual or organization that requires reserving park areas, planning, facilities, staffing, or other services beyond the level normally provided at the state park to ensure public welfare and safety and facility and/or environmental protection.

"Standard campsite" shall mean a designated camping site which is served by nearby domestic water, sink waste, garbage disposal, and flush comfort station.

"State park area" shall mean any area under the ownership, management, or control of the commission, including trust lands which have been withdrawn from sale or lease by order of the commissioner of public lands and the management of which has been transferred to the commission, and specifically including all those areas defined in WAC 352-16-020. State park areas do not include the seashore conservation area as defined in RCW 79A.05.605 and as regulated under chapter 352-37 WAC.

"Trailer dump station" shall mean any state park sewage disposal facility designated for the disposal of sewage waste from any recreation vehicle, other than as may be provided in a utility campsite.

"Upland" shall mean all lands lying above mean high water.

"Utility campsite" shall mean a standard campsite with the addition of electricity and which may have domestic water and/or sewer.

"Vehicle" shall include every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway. For the purposes of this chapter, this definition excludes bicycles, wheelchairs, motorized foot scooters, electric personal assistive mobility devices (EPAMDs), snowmobiles and other nonlicensed vehicles.

"Vehicle parking permit" means the permit issued on a daily, multiple day or annual basis for parking a vehicle in any state park area designated for daytime vehicle parking, excluding designated sno-park parking areas.

"Vessel" shall mean any watercraft used or capable of being used as a means of transportation on the water.

"Walk-in campsite" shall mean a campsite that is accessed only by walking to the site and which may or may not have vehicle parking available near by.

"Watercraft launch" is any developed launch ramp designated for the purpose of placing or retrieving watercraft into or out of the water.

"Water trail advisory committee" shall mean the twelve-member committee constituted by RCW 79A.05.420.

"Water trail camping sites" shall mean those specially designated group camp areas identified with signs, that are near water ways, and that have varying facilities and extent of development.

"Wood debris" shall mean down and dead tree material.

AMENDATORY SECTION (Amending WSR 07-03-121, filed 1/22/07, effective 2/22/07)

WAC 352-32-060 Pets. (1) All pets or domestic animals must be kept under physical control, on a leash no greater than eight feet in length, or otherwise physically restrained, at all times while in a state park area.

(2) Pets and domestic animals may not be allowed to dig or otherwise disturb or damage the natural or cultural features of any state park area.

(3) In any state park area, pets or domestic animals, except for assistance animals for persons with disabilities, are not permitted on any designated swimming beach; within a natural area preserve; during the skiing season on any designated alpine ski site or cross country ski trail in which the track has been prepared, set, or groomed; or in any public building unless so posted.

(4) In any state park area, pets or domestic animals, except for assistance dogs for persons with disabilities, may be prohibited in areas where there could be conflict with domestic livestock or agricultural activities on adjacent land, for the protection of wildlife, sensitive natural systems, special cultural areas, or for other recreational or health and safety purposes, if approved by the director or designee and so posted.

(5) No person shall allow his/her pet or domestic animal to bite or in any way molest or annoy other park visitors. No person shall permit his/her pet or domestic animal to bark or otherwise disturb the peace and tranquillity of the park.

(6) Any person bringing a pet or domestic animal into a state park area shall dispose of animal feces in a plastic or paper sack. The sack shall then be deposited in a solid waste container.

(7) Pet off-leash areas may be approved and designated by the director or designee. Approved pet off-leash areas will be exempt from subsections (1), (2), and (3) of this section. Approved pet off-leash areas may be closed permanently or temporarily by the director or designee for the protection of wildlife, sensitive natural systems, and special cultural areas. Any park area designated for pets off-leash shall be conspicuously posted as such by the director or designee.

(8) ~~((Any violation of this section is an infraction under chapter 7.84 RCW.))~~ In designated roofed accommodations, pets are permitted and fees will be charged as published by state parks.

(9) This section shall not apply to the recreational use of horses, llamas, sled dogs, or similar animals as authorized by WAC 352-32-070.

(10) Any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 07-03-121, filed 1/22/07, effective 2/22/07)

WAC 352-32-165 Public assemblies, meetings. (1) Public assemblies are permitted in state park areas on grounds which are open to the public generally, provided a permit therefore has been issued as herein provided.

(2) An application for such a permit may be submitted on such forms as may be provided by the commission, or in any written form so long as the permit application sets forth the following:

(a) Name, address and phone number of the applicant;

(b) Date, time, duration, nature and place of the proposed event, including a description or schedule of events and activities;

(c) Estimate of the number of persons expected to attend including the basis for the estimate;

(d) Special equipment, including temporary structures such as speakers' stands, platforms, lecterns, chairs, benches or the like, and any sound amplification equipment to be used in connection with the event;

(e) Special facilities, including emergency first aid, additional sanitation and refuse collection facilities, to be used in connection with the event;

(f) Crowd control to be provided by the event sponsor;

(g) Designation of a responsible contact individual with whom park officials may coordinate event activities, plans and preparations.

(3) The equipment and facilities referenced in subsection (2)(d) and (e), of this section, are to be provided by the event sponsor, unless other mutually satisfactory arrangements are made to use locally available commission owned equipment and facilities.

(4) The applicant must supply satisfactory evidence of arrangements for such equipment, facilities, and crowd control.

(5) If the agency determines it is necessary, the applicant must submit a completed environmental checklist along with the application. Upon request, the agency will assist the applicant in completing the environmental checklist and may request compensation in accordance with agency State Environmental Policy Act (SEPA) rules, chapter 352-11 WAC.

(6) Permit applications must be submitted at least sixty days in advance of the proposed event so that the information supplied in the application may be verified and so that the agency can notify and coordinate action with officials of other jurisdictions and agencies responsible for health, safety and welfare. The sixty-day time limit is also necessary in order to comply with SEPA review requirements to identify any potential environmental impacts and mitigation. This requirement for an application to be filed sixty days prior to an event may be waived in rare circumstances where arrangements can be made in a shorter time while still complying with all other requirements of this section.

(7) The permit application must be submitted along with a nonrefundable permit fee as published by state parks to the Washington State Parks and Recreation Commission, ((7150 Cleanwater Drive,)) P.O. Box 42650, Olympia, Washington 98504-2650. The director, or designee, may issue a permit consistent with the application, or otherwise modified in a manner which is acceptable to the applicant. The following criteria will be evaluated in considering a permit application:

(a) The ability of the applicant to finance, plan and manage the activity in accordance with sanitation, safety, medical care, fire control, security, crowd, noise, and traffic control requirements, and consistent with the protection of park resources and image;

(b) The extent to which the proposed activity, in both nature and timing, threatens interference with customary usage of the park by members of the public or interferes with the convenience of park neighbors and the general public;

(c) The experience of the applicant in performing similar activities in the past;

(d) Measures undertaken to mitigate any changes in customary park usage or damage to park resources caused by the activity.

(8) Following an evaluation of the above listed criteria, the director or designee will issue a permit unless:

(a) The application does not adequately address the evaluation criteria; or

(b) A prior application for the same time and place has been made which has been or will be granted; or

(c) The event will present a clear and present danger to the public health or safety; or

(d) The event is of such nature or duration that it cannot reasonably be accommodated in the particular park area requested. In considering this, the director or designee shall take into account the potential for significant environmental impact.

(9) The director or designee will acknowledge receipt of the permit application within ten days. The acknowledgement will estimate the timeline for processing the application based on the complexity of the requested use. The director or designee shall make the final ruling on the permit application as soon as possible but no later than ten days prior to the proposed event. The granting of this permit does not exempt the applicant from complying with other state, county or local permit requirements nor does it excuse compliance with the State Environmental Policy Act, where applicable. A threshold determination will be made by the agency to determine potential environmental impact. Applicants should be aware that timelines may exist under the State Environmental Pol-

icy Act and implementing regulations which are independent of this permit requirement.

(10) All permit denials will be in writing, will contain a statement of the specific reasons for the denial, and will advise the applicants of the right to request judicial review of the denial as provided in subsection (12) of this section.

(11) A permit issued may contain such conditions as are reasonably consistent with protection and use of the park area for the purposes for which it is maintained. It may also contain reasonable limitations on the time and area within which the event is permitted.

(a) The commission may require applicants to arrange for general liability insurance to cover participants, and the state of Washington will be named as an additional insured.

(b) The commission may require the filing of a bond with satisfactory surety payable to the state, to cover costs such as restoration, rehabilitation and cleanup of the area used, and other costs resulting from the permittee activity. In lieu of a bond, a permittee may elect to deposit cash equal to the amount of the required bond.

(12) Applicants whose permit application is denied may in writing request that the commission seek judicial review of the denial, in which event the commission shall timely seek a declaratory judgment pursuant to the Uniform Declaratory Judgment Act, chapter 7.24 RCW, and Superior Court Rule 57, in the superior court for Thurston County. Such requests shall be mailed, or otherwise delivered to the Director, Washington State Parks and Recreation Commission, ((7150 Cleanwater Drive,)) P.O. Box 42650, Olympia, Washington 98504-2650, within ten days from the date the application is denied.

AMENDATORY SECTION (Amending WSR 07-03-121, filed 1/22/07, effective 2/22/07)

WAC 352-32-210 Consumption of alcohol in state park areas. (1) Opening, possessing alcoholic beverage in an open container, or consuming any alcoholic beverages in any state park or state park area is prohibited except in the following designated areas and under the following circumstances in those state parks or state park areas not posted by the director or designee as closed to alcohol pursuant to subsection (4) of this section:

(a) In designated campsites or in other overnight accommodations, by registered occupants or their guests; provided ELC users obtain written permission through state parks application process;

(b) In designated picnic areas, which shall include those sites within state park areas where picnic tables, benches, fireplaces, and/or outdoor kitchens are available, even though not signed as designated picnic areas and public meeting rooms;

(c) In any reservable group day use facility by any authorized group which has paid the reservation fee and applicable damage deposit and which has obtained prior permit authorization to have alcohol by the park manager; and

(d) In any building, facility or park area operated and maintained under a concession agreement, wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dis-

pensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(2) Opening, possessing alcoholic beverage in an open container, or consuming any alcoholic beverages is prohibited at the following locations:

- (a) Dash Point State Park;
- (b) Saltwater State Park;
- (c) Sacajawea State Park;
- (d) Flaming Geyser State Park;**

Except in the following designated areas and under the following circumstances:

(i) In designated campsites, or in other overnight accommodations by registered occupants or their guests.

(ii) In any building, facility or park area operated and maintained under a concession agreement wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dispensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(iii) In any reservable group day use facility by any authorized group which has paid the reservation fee and applicable damage deposit and which has obtained prior permit authorization to have alcohol by the park manager.

(3) The director or designee may, for a specified period or periods of time, close any state park or state park area to alcohol if the director or designee concludes that an alcohol closure is necessary for the protection of the health, safety and welfare of the public, park visitors or staff, or park resources. The director or designee shall consider factors including but not limited to the effect or potential effect of alcohol on public and employee safety, park appearance, atmosphere, and noise levels, conflicts with other park uses or users, the demand for law enforcement, and the demand on agency staff. Prior to closing any park or park area to alcohol, the director or designee shall hold a public hearing in the general area of the park or park area to be closed to alcohol. Prior notice of the meeting shall be published in a newspaper of general circulation in the area. In the event the director or designee determines that an immediate alcohol closure is necessary to protect against an imminent and substantial threat to the health, safety and welfare of the public, park visitors or staff, or park resources, the director or designee may take emergency action to close a park or park area to alcohol without first complying with the publication and hearing requirements of this subsection. Such emergency closure may be effective for only so long as is necessary for the director or designee to comply with the publication and hearing requirements of this subsection.

(4) The director or designee shall ensure that any park or park area closed to alcohol pursuant to subsection (3) of this section is conspicuously posted as such at the entrance to said park or park area. Additionally, the director or designee shall maintain for public distribution a current list of all parks and park areas closed to alcohol pursuant to subsection (3) of this section.

(5) Dispensing alcoholic beverages from containers larger than two gallons is prohibited in state park areas except when authorized in writing and in advance by the park manager.

(6) The provisions of this rule shall not apply to any part of the Seashore Conservation Area, as designated and established by RCW 79A.05.605.

(7) Opening, consuming, or storing alcoholic beverages in Fort Simcoe State Park and Squaxin Island State Park is prohibited.

(8) Any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 07-03-121, filed 1/22/07, effective 2/22/07)

WAC 352-32-250 Standard fees charged. Fees shall be charged in parks operated by the commission for use of lands, facilities, programs, services, and materials as published by state parks: Provided, however, That the commission may suspend any or all of these fees if revenues generated by the fees are not returned to the benefit of the parks: Provided further, That the director or designee has the authority to discount fees in order to take advantage of marketing opportunities to encourage use and increase revenues. Any such discounts shall be effective for a limited period of time up to one year in duration. The director or designee may consider the following factors in temporarily establishing or discounting fees:

Prevailing rates for comparable facilities;

Day of the week;

Season of the year;

Amenities of the park area and site;

Demand for facilities;

Low-income eligibility requirements as adopted by state parks; and

Such other considerations as the director or designee deems appropriate. The director or designee shall prescribe the specific details and manner in which fees shall be applied. The director or designee may also waive fees for marketing or promotional purposes or to redress visitor complaints. The director or designee may also establish temporary fees for a maximum of one year for new facilities or services. An administrative fee, as published by state parks, will be assessed for replacement of lost, damaged, or destroyed passes or permits.

(1) The director or designee may authorize reciprocity or cooperative arrangements with other state and/or federal agencies for the use of annual permits for like services, provided, that Washington licensed vehicles and/or residents shall be required to have and/or display the appropriate Washington permit or other permit as approved by the director or designee.

(2) Overnight camping - standard campsite; utility campsite; emergency campsite; overflow campsite; hiker/biker campsite; walk-in campsite; primitive campsite for nonmotorized for motorized vehicle - fees will be charged as published by state parks. Payment for utility campsite will be collected whether utility hookups are actually used or not, except when otherwise specified by a ranger.

(3) Overnight camping - multiple campsites: Where campsites are designated and posted as a "multiple campsite," an individual may rent the multiple campsite by paying the multiple campsite fee and providing the required information

on the occupants of the other sites. The multiple campsite fee will be calculated by multiplying the standard, utility or primitive campsite fee, as applicable, by the number of individual campsites to be used in the designated multiple campsite.

(4) Group camping area - certain parks: Individual camping units using these facilities must pay campsite fees as published by state parks.

(5) Convenience camping - fees will be charged for use of overnight accommodations such as yurts, cabins, platform tents, etc.

(6) Conference center facilities - fees will be charged for use of facilities and services as set forth in the fee schedule published by state parks and will include, but not be limited to: Overnight accommodations in individual recreational housing units or dormitory units; use of meeting rooms, performance venues and rally areas; linen and janitorial services; group food services; and use of equipment, supplies, and staff time necessary to support group activities. Certain deposits, reservation and cancellation fees also apply as set forth in the fee schedule published by state parks and may not be refundable.

(7) Environmental interpretation:

(a) Service fees will be established by the director or designee in order to recover, to the maximum extent practicable, all direct and indirect costs of environmental interpretation services on a program-wide basis based on anticipated attendance.

(b) Material and publication fees will be established by the director or designee. All material and publication fees will be deposited in the parks improvement account to be used for purposes specified in RCW 79A.05.060.

(c) Facility use, including environmental learning center fees, will be established by the commission. A facility use fee schedule is available by contacting Washington State Parks and Recreation Commission, ((~~7150 Cleanwater Drive,~~)) P.O. Box 42650, Olympia, WA 98504-2650.

(8) Adirondacks - not to include those located in ELC areas: Occupancy shall be limited to the number of built-in bunks provided.

(9) Extra vehicle overnight parking fee will be charged for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: Provided, An extra vehicle overnight parking fee shall not be imposed when:

(a) Up to four motorcycles occupy one campsite, exclusive of other vehicles or recreation vehicles; or

(b) When the recreational vehicle and the towed vehicle arrive at the park hitched together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay.

(10) Unattended vehicle overnight parking permit: Unoccupied vehicles parked overnight in designated areas must register and pay the nightly permit fee. The permit must be prominently displayed in the vehicle.

(11) Watercraft launch permit fee shall be charged at designated facilities. Watercraft launch permit shall not be required for:

(a) Registered overnight guests in the park containing the watercraft launch;

(b) Persons holding limited-income senior citizen, disability or disabled veteran passes;

(c) Vehicles displaying a valid annual natural investment permit (watercraft launch) permit.

(12) Trailer dump station fee - fee shall not be required for:

(a) Registered camping vehicles in the park containing the dump station;

(b) Vehicles of persons holding limited-income senior citizen, disability or disabled veterans passes;

(c) Vehicles displaying a valid annual natural investment permit.

(13) Variable pricing - variable prices will apply for use of campsites and/or facilities during such periods as the director or designee may specify.

(14) Popular destination park - a surcharge will apply for use of standard or utility campsites located in a popular destination park during such periods as the director may specify.

(15) Water trail site fees - for one day/night will be set by the commission.

(16) In addition to the regular fee, a surcharge may be imposed for failure to pay the self-registration fee.

(17) Group day use facilities - a minimum daily permit fee will be charged for groups of 20 or more.

(18) Reservation transaction - fees will be charged as published by state parks and are not refundable.

(19) Moorage facilities - fee will be charged as published by state parks.

(20) Hot showers, electric stoves - fees will be charged as published by state parks. Fees published by state parks do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

(21) Film permits and site location fees will be charged as outlined in chapter 352-74 WAC.

(22) Off-season pass fees will be charged as published by state parks.

(23) Administrative fees will be charged as published by state parks for the replacement of lost, stolen or destroyed passes and permits.

(24) Commercial recreation provider permit registration - a fee shall be charged, as published by state parks for registration as a commercial recreation provider.

(25) Commercial recreation provider permit - a fee shall be charged, as published by state parks for obtaining a permit to engage in commercial recreational use of state parks, as defined in WAC 352-32-010.

(26) Sno-park permit - seasonal and daily permit fees will be charged as published by state parks.

(27) Special groomed trail permit - a statewide special groomed trail permit will be required for use of special groomed trail areas. The fee charged will be as published by state parks.

(28) Wood debris collection permit - fee will be charged for collection and removal of wood debris from a state park area pursuant to RCW 4.24.210. The fee may be waived for volunteers assisting with emergency salvage and storm cleanup in the parks.

(29) Merchandise - prices for merchandise including but not limited to interpretive, recreational and historic materials, literature, food, beverage, grocery and other items at agency

operated sales points will be based on market rates and practices.

(30) Back country camping permit - fee will be charged as published by state parks for selected state park areas as designated by the director.

(31) Group use registration - fee will be charged for groups of a size to be specified in the fee schedule on a park by park basis who have not otherwise reserved group facilities.

(32) Special event - fees will be charged based on the cost of providing events and market rates for comparable activities at other locations.

(33) Public assembly - permit fees based on costs as indicated in WAC 352-32-165.

(34) Aquatic and other state park facilities - fees will be charged as published by state parks.

(35) Checks dishonored by nonacceptance or nonpayment (NSF checks) - handling fee and interest:

(a) A handling fee may be assessed consistent with the maximum amount allowed in the office of state procurement, department of general administration's state contract and as published by state parks for checks as defined by chapter 62A.3-104 RCW, dishonored by nonacceptance or nonpayment.

(b) Interest at the maximum rate allowable may be charged on the NSF check as defined by chapter 62A.3-515 RCW, and as published by state parks for a check not paid within fifteen days after a statutory notice of dishonor is sent to maker's last known address.

(36) Fees subject to certificate of participation (COP) and as determined by the commission.

AMENDATORY SECTION (Amending WSR 07-03-121, filed 1/22/07, effective 2/22/07)

WAC 352-32-251 Limited income senior citizen, disability, and disabled veteran passes. (1)(a) Persons who are senior citizens, meet the eligibility requirements of RCW 79A.05.065, and have been residents of Washington state for at least the past twelve consecutive months shall, upon application to the commission accompanied by either a copy of a federal income tax return filed for the previous calendar year, or a senior citizen property tax exemption pursuant to RCW 84.36.381, or a notarized affidavit of income on a form provided by the commission, receive a limited income senior citizen pass at no charge, which entitles the holder's camping party to free use of trailer dump stations, watercraft launch sites, and to a 50 percent reduction in the campsite fee, or moorage fee as published by state parks. Limited income senior citizen passes shall remain valid so long as the pass holder meets eligibility requirements.

(b) Proof submitted to the commission for the return of a senior citizen pass surrendered upon request to a commission employee who has reason to believe the user does not meet the eligibility criteria shall be the same as listed in subsections (1) and (5) of this section for original pass issuance.

(2) Persons who are:

(a) Permanently disabled, legally blind, or profoundly deaf, meet the eligibility requirements of RCW 79A.05.065, and have been residents of Washington state for at least the

past twelve consecutive months shall, upon application to the commission, receive a five year disability pass at no charge;

(b) Temporarily disabled and who meet the eligibility requirements of RCW 79A.05.065 and have been residents of Washington state for at least the past twelve consecutive months shall, upon application to the commission, receive a one year disability pass at no charge; and

(c) Residents of Washington who have been issued a card, decal (placard) or special license plate for a permanent disability under RCW 46.16.381 shall be entitled, along with the members of their camping party to free use of trailer dump stations, watercraft launch sites, and to a 50 percent reduction in the campsite fee, or moorage fee as published by state parks.

(3) Persons who are veterans, meet the eligibility requirements of RCW 79A.05.065, and have been residents of Washington state for at least the past twelve consecutive months shall, upon application to the commission, receive a lifetime disabled veteran pass at no charge. Pass holders must provide proof of continued residency as determined by the director or designee. The pass entitles the holder's camping party to free use of a state park campsite, trailer dump station, watercraft launch site, moorage facility, and reservation service.

(4) Applications for limited income senior citizen, disability, and disabled veteran passes shall be made on forms prescribed by the commission.

(5) Verification of age shall be by original or copy of a birth certificate, notarized affidavit of age, witnessed statement of age, baptismal certificate, or driver's license. Verification of residency shall be by original or copy of a Washington state driver's license, voter's registration card, or senior citizen property tax exemption.

(6) Pass holders must be present and show their valid pass and identification upon registration or when requested by any commission employee or representative.

(7) Pass holders that violate or abuse the privileges of their pass, as listed below, may be subject to suspension of their pass and assessed other fees.

(a) Duplicate or multiple reservations for the same night - thirty-day suspension.

(b) Use of pass by unauthorized person - sixty-day suspension and/or a fee equal to two times the campsite fee.

(c) Two or more no-shows (failure to use or cancel reservation) for reservations between May 1 and November 1 - ninety-day suspension.

(d) Repeated park rule violations - minimum ninety-day suspension.

The pass will be confiscated by the ranger on duty or their designee and sent to the Olympia headquarters office. At the end of the suspension the pass will be returned to the authorized pass holder at no cost.

(8) Pass holders may appeal a suspension of their pass by providing written justification/explanation to the state parks director or designee at ((7150 Cleanwater Drive,)) P.O. Box 42650, Olympia, WA 98504.

(9) Pass holder discounts shall apply only to those fees listed in subsections (1), (2), and (3) of this section. Pass holder discounts will not apply to all other fees as published

by state parks, including but not limited to, extra vehicles, vacation housing, yurts, and cabins.

(10) If the conditions of a pass holder change or the pass holder changes residency to a place outside Washington state during the time period when a pass is valid such that a pass holder no longer meets the eligibility requirements of RCW 79A.05.065 and WAC 352-32-251, the pass becomes invalid, and the pass holder shall return the pass to the commission or surrender the pass to a state park representative.

(11) Any violation of this section is an infraction under chapter 7.84 RCW.

NEW SECTION

WAC 352-32-253 Foster parent program. (1) Any Washington state resident who provides out-of-home care to a child as either a current licensed foster family home or a person related to the child is entitled to free camping. To use a campsite, the qualified resident shall:

(a) If the park is subject to the state parks reservation system, foster parents will make reservations through the reservation services call center, pay the reservation fee, and show their foster home license or foster parent ID card along with their Washington state drivers license or photo ID upon arrival at the park(s).

(b) For nonreservation parks, the foster parents upon arrival at the park will show their foster home license or foster parent ID card along with their Washington state drivers license or photo ID.

(c) The commission shall negotiate payment and costs, to allow holders of a foster home pass free access and usage of park campsites, with the following nonoperated, nonstate-owned parks: Central Ferry, Chief Timothy, Crow Butte and Lyons Ferry.

(2) The foster parent or relative to the child and the child must be present for the duration of the stay.

(3) Violations or abuse of these privileges, including but not limited to the list below, may be subject to revocation, suspension of their privileges and/or assessed other fees.

(a) Duplicate or multiple reservations for the same night - thirty-day suspension.

(b) Use of privileges by unauthorized person - sixty-day suspension and/or a fee equal to two times the campsite fee.

(c) Two or more no-shows (failure to use or cancel reservation) for reservations between May 1 and November 1 - ninety-day suspension.

(d) Repeated park rule violations - minimum ninety day suspension.

(4) Foster parents may appeal a suspension or revocation of privileges by providing written justification/explanation to the state parks director or designee at P.O. Box 42650, Olympia, WA 98504.

AMENDATORY SECTION (Amending WSR 00-13-070, filed 6/16/00, effective 7/17/00)

WAC 352-32-285 Applicability of standard fees to volunteers in parks. The fees published by state parks pursuant to RCW 79A.05.070(6) shall not apply whenever any individual, group, organization, association, or agency shall

volunteer to perform personal services in lieu of standard fees if the following conditions are met:

(1) The park manager has determined that the personal service is desirable;

(2) The service performed does not replace or supplant that which would otherwise be performed by parks employees or contractors;

(3) The service performed is not one commonly performed by members of an organized trade union;

(4) The service performed does not result in any type of development which will necessarily create future operating costs to the commission;

(5) The volunteer shall perform personal services under the following provisions.

(a) At least four hours of service are provided per day; alternatively

(b) At least twenty-eight hours of service are provided per seven-day week, spread over at least five days.

(c) If more than four hours, but less than twenty-eight hours of volunteer service are provided during a seven-day week, a prorated waiver of fees equivalent to (b) of this subsection may be offered by the park manager.

(d) Volunteer time accumulated may not be carried forward for credit in subsequent weeks.

(e) The waiver of standard fees shall apply only at the park where such personal services were performed (~~(unless volunteer is participating in volunteer passport program)~~).

The limit placed on any camper by WAC 352-32-030(7) shall not apply to persons qualifying under this section. Continuous occupancy of facilities by the same person or persons qualifying under this section shall be limited to thirty consecutive nights, unless otherwise approved by the director or designee.

This section does not expand or limit the provisions of RCW 79A.05.140 through 79A.05.155.

AMENDATORY SECTION (Amending WSR 07-03-121, filed 1/22/07, effective 2/22/07)

WAC 352-32-300 Easement, franchise, license, and special use permit applications and fees. (1) A party that desires to have a request for an easement, franchise, license, or special use permit considered by the commission shall submit an application on a form provided by the director to the:

Washington State Parks and
Recreation Commission
((7150 Cleanwater Drive))
P.O. Box 42650
Olympia, WA 98504-2650

Each application from a party other than a government agency shall be accompanied by a nonrefundable application fee according to a schedule adopted by the commission.

A party shall pay the commission processing and use fees as apply according to a schedule adopted by the commission.

A party shall pay the commission for any appraisal, appraisal review, and survey costs incurred by the commission during the consideration of an application for an ease-

ment, franchise, license, or special use permit. The amount of any appraisal, appraisal review, and survey costs shall be determined by the director or designee.

An application fee and any processing fees, use fees, and appraisal, appraisal review, and survey payments shall be submitted to the commission at the address listed above and shall be in the form of a check or money order payable to the commission.

(2) The application fee, processing fee, use fee, and the appraisal, appraisal review, and survey payments established by subsection (1) of this section may be waived by the director or designee when the director or designee determines that the action authorized by an easement, franchise, license, or special use permit will be of benefit to the general public, if approved by the commission.

AMENDATORY SECTION (Amending WSR 07-03-121, filed 1/22/07, effective 2/22/07)

WAC 352-32-340 Approval of community-based park improvements—Policies. The director or designee((;)) shall approve or disapprove all permits for community-based park improvements. Specific policies concerning community-based park improvements are available upon request.

A community-based park improvement is a construction project, proposed to be accomplished by individuals, groups, churches, charities, organizations, agencies, clubs, or associations using donated labor and/or materials, that results in a permanent change to state park lands or structures, or that creates an additional structure on state park lands.

AMENDATORY SECTION (Amending Order 82, filed 10/2/84)

WAC 352-74-010 Purpose. This chapter is promulgated in order to establish procedures for the issuance of permits for filming within state parks.

The agency permits commercial filming and still photography when it is consistent with the park's mission and will not harm the resource or interfere with the visitor experience.

All commercial filming activities taking place within a park require a permit. Commercial filming includes capturing a moving image on film and video as well as sound recordings.

AMENDATORY SECTION (Amending WSR 94-23-010, filed 11/3/94, effective 1/1/95)

WAC 352-74-020 Definitions. When used in this chapter the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.

(1) "Applicant" shall mean((s)) an individual or organization who submits an application to the director to film within state parks for other than personal or news purposes.

(2) "Commission" shall mean((s)) the Washington state parks and recreation commission.

(3) "Director" shall mean((s)) the director of the Washington state parks and recreation commission or the director's designee.

(4) "Film and filming" shall mean ((still and movie camera filming and video taping)) capturing a movie image magnetically or digitally and "still photography" means capturing a single, nonmovie image with film or magnetic or digital media.

(5) "Film maker" shall mean((s)) an applicant who has received approval to film within state parks through the issuance of a filming permit by the director or ((the)) designee ((of the director)).

AMENDATORY SECTION (Amending Order 103, filed 3/18/88, effective 5/15/88)

WAC 352-74-030 Filming within state parks. The commission recognizes the desire of individuals and organizations to film within the state parks. Individuals and organizations may film within state parks in a manner which is not disruptive to park users or resources when the filming is for personal or news purposes. Individuals and organizations that desire to film within state parks for other than personal or news purposes may do so only in accordance with the film permit requirements of this chapter and subject to the discretion of the commission as otherwise set forth herein.

Filming for strictly educational purposes may have some or all of the applicable fees waived.

AMENDATORY SECTION (Amending WSR 94-23-010, filed 11/3/94, effective 1/1/95)

WAC 352-74-040 Film permit application. Persons or organizations that desire to film within a state park for other than personal or news purposes shall submit a completed film permit application with the appropriate fees to the appropriate location:

((Director
Washington State Parks and
Recreation Commission
7150 Cleanwater Lane
P.O. Box 42650
Olympia, WA 98504-2650))

<u>Eastern Region</u> <u>270 9th Street N.E.</u> <u>Suite 200</u> <u>East Wenatchee, WA 98802</u>	<u>Fort Worden State Park</u> <u>200 Battery Way</u> <u>Port Townsend, WA 98368</u>
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<u>Northwest Region</u> <u>220 N. Walnut Street</u> <u>Burlington, WA 98233</u>	<u>Puget Sound Region</u> <u>2840 Riverwalk Drive S.E.</u> <u>Auburn, WA 98002-8207</u>
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<u>Southwest Region</u> <u>11838 Tilley Road S.</u> <u>Olympia, WA 98512-9167</u>

AMENDATORY SECTION (Amending WSR 95-22-067, filed 10/30/95, effective 1/1/96)

WAC 352-74-045 Filming fees. (1) Permit application fee - each application shall be accompanied by the appropri-

ate application fee, based on the amount of time between the date of application and the date of facility use, which shall be in the form of a check or money order payable to the Washington state parks and recreation commission.

(2) Site location fee - prior to commencing filming activities or otherwise as specified by the director or ((the director's)) designee, each applicant shall pay an additional site location fee, set by the director or ((the director's)) designee based on the magnitude and duration of the impact on park resources and normal public use, the uniqueness of the site, and such other considerations as the director or ((the director's)) designee deem appropriate.

(3) Previous filming which is later commercially merchandised will be subject to the same rules and provisions as new projects described herein.

AMENDATORY SECTION (Amending Order 82, filed 10/2/84)

WAC 352-74-050 Approval or disapproval of film permit application. The director or ((the)) designee ((of the director)) shall approve or disapprove a film permit application and establish the filming locations, time periods, and conditions for an approved application.

The director or ((the)) designee ((of the director)) may require an approved applicant to submit the following to the commission prior to the issuance of a film permit:

(1) Fees payable to the Washington state parks and recreation commission in the form of a check or money order in an amount, as determined by the director or ((the)) designee ((of the director)), which covers the charges for the facilities to be used by a film maker and any staff costs to be incurred by the commission due to the filming that are beyond the regular responsibilities of the staff of the commission;

(2) A bond or damage deposit payable to the Washington state parks and recreation commission in an amount, as determined by the director or ((the)) designee ((of the director)), which is sufficient to cover any damages to park resources or facilities which may occur during the filming; and

(3) Certification that an approved applicant has liability insurance in an amount, as determined by the director or ((the)) designee ((of the director)), which is sufficient to cover any liability costs associated with the actions of a film maker during filming.

AMENDATORY SECTION (Amending WSR 94-23-010, filed 11/3/94, effective 1/1/95)

WAC 352-74-060 Issuance and revocation of film permit. The director or designee ((of the director)), shall issue a film permit to an approved applicant after the applicant has submitted ((to the director)) any fees, bond, damage deposit, and insurance certification established pursuant to WAC 352-74-050 and has demonstrated in its application or otherwise to the satisfaction of the director that filming:

- (1) Is compatible with the activities of park visitors;
- (2) Will not damage facilities or resources, or interfere with park operations;
- (3) Will not disrupt wildlife;
- (4) Will not imply the endorsement of the commission for the content of the film;

(5) Will acknowledge the cooperation of the commission;

(6) Is not inconsistent in the judgment of the director with the purposes for, or conditions on which, the property where the filming is to take place was acquired; and

(7) Will conform with all of the applicable statutes, rules, policies, and procedures of the commission, and the instructions of the commission staff who supervise the filming.

If a film maker does not comply with all of the applicable statutes, rules, policies, and procedures of the commission, the conditions upon which the permit was granted, and the instructions of the commission staff who supervise the filming, then the director or designee ((of the director)) shall revoke the film permit.

AMENDATORY SECTION (Amending WSR 94-23-010, filed 11/3/94, effective 1/1/95)

WAC 352-74-070 Additional fees and release of bond or damage deposit. After completion of filming the director or ((the)) designee ((of the director)) shall determine if any additional fees are to be assessed a film maker and whether or not any bond or damage deposit submitted ((to the director)) by a film maker may be released.

If the director or ((the)) designee ((of the director)) determines that no additional fees are to be assessed and that a bond or damage deposit is to be released, then a bond or damage deposit shall be returned to a film maker.

If the director or ((the)) designee ((of the director)) determines that additional fees are to be assessed or that a bond or damage deposit is not to be released, then the film maker shall be so informed.

If a film maker pays additional fees in the form of a check or money order payable to the Washington state parks and recreation commission which is submitted to the director within thirty days of receipt of the notice to pay the fees, then the director or ((the)) designee ((of the director)) shall return a bond or damage deposit to a film maker.

If a film maker does not pay additional fees within the time period and in accordance with the procedures set forth above, then the director or designee ((of the director)) shall exercise the rights of the commission under a bond or damage deposit to pay the additional fees and so inform a film maker or exercise any such other legal rights as may be available.

WSR 08-24-011

PERMANENT RULES

FOREST PRACTICES BOARD

[Filed November 21, 2008, 9:19 a.m., effective December 22, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Implement SHB 2893 (2008 session) which added a thirteenth member to the forest practices board and changed the criterion for the small forest landowner general public member position and to make minor corrections throughout Title 222 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 222-08-010, 222-08-040, 222-08-050, 222-08-090, 222-08-140, 222-08-150, 222-08-160, 222-10-010,

222-10-110, 222-12-010, 222-12-041, 222-16-060, 222-16-105, 222-21-010, 222-21-035, 222-21-050, 222-22-020, 222-22-050, 222-30-021, 222-30-023, 222-30-060, 222-30-070, 222-30-120, 222-34-030, 222-42-010, 222-46-020, 222-46-030, 222-46-040, 222-46-060, 222-46-070, and 222-50-020; and new sections WAC 222-08-141 and 222-08-151.

Statutory Authority for Adoption: RCW 76.09.040.

Adopted under notice filed as WSR 08-18-001 on August 20, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 31, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 31, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 31, Repealed 0.

Date Adopted: November 12, 2008.

Victoria Christiansen
Chair

AMENDATORY SECTION (Amending WSR 04-05-122, filed 2/18/04, effective 3/20/04)

WAC 222-08-010 Purpose. The purpose of this chapter is to describe the forest practices board, its organization((;)) and administrative procedures, and to provide rules implementing RCW 34.05.220 and ((42.17.250 through 42.17.320 and)) chapters 42.52 and 42.56 RCW ((for the forest practices board)). The purpose of this chapter is also to set out department procedures for administration of the forest practices regulatory program.

AMENDATORY SECTION (Amending WSR 04-05-122, filed 2/18/04, effective 3/20/04)

WAC 222-08-040 Operations and procedures. (1) The board holds quarterly scheduled meetings on the second Wednesday of February, May, August, and November, at such times and places as deemed necessary to conduct board business. At regularly scheduled board meetings, agenda time is allotted for public comment on rule proposals and board activities, unless the board has already set public hearings on the rule proposals. Special and emergency meetings may be called anytime by the chair of the board or by a majority of the board members. Notice of special and emergency meetings will be provided in accordance with RCW 42.30.070 and 42.30.080. All meetings are conducted in accordance with chapter 42.30 RCW, and RCW 76.09.030 (4). A schedule of meetings shall be published in the *Washington State Register* in January of each year. Minutes shall be taken at all meetings.

(2) Each member of the board is allowed one vote on any action before the board; pursuant to RCW 42.30.060(2), secret voting is not allowed. All actions shall be decided by majority vote. A majority of the board shall constitute a quorum for making decisions and promulgating rules necessary for the conduct of its powers and duties. When there is a quorum and a vote is taken, a majority vote is based upon the number of members participating. The chair, designee, or majority of the board may hold hearings and receive public comment on specific issues such as rule making that the board will consider in its actions.

(3) Rules marked with an asterisk (*) pertain to water quality and are adopted or amended with agreement from the department of ecology ((because they pertain to water quality)). See WAC 222-12-010.

(4) The chair or majority of board members shall set the meeting agenda. Public requests for topics to be included in the board's quarterly public meeting agenda must include the name of the requester, and be received at the office at least fourteen days before the scheduled meeting. Topics requested may be added to the meeting agenda at the chair's discretion or by a majority vote of the board members.

(5) Written materials for the board which are not provided in advance of the meeting date will not be distributed during the meeting unless fifteen copies are provided to staff.

AMENDATORY SECTION (Amending WSR 04-05-122, filed 2/18/04, effective 3/20/04)

WAC 222-08-050 Public records—Availability. The board's public records are available for inspection and copying except as otherwise exempted under RCW ((42.17.310)) 42.56.210 through 42.56.480, any other law, and this chapter.

AMENDATORY SECTION (Amending WSR 04-05-122, filed 2/18/04, effective 3/20/04)

WAC 222-08-090 Disclosure of public records. Public records may be inspected or copies of such records obtained, upon compliance with the following procedure:

(1) A request shall be made in writing, by fax or electronic mail, to the public records officer or designee. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The calendar date of the request; and
- (c) A description of the record(s) requested.

(2) Within five business days of receiving a public records request, as required by RCW ((42.17.320)) 42.56.-520, the office shall respond by:

- (a) Providing the record; or
- (b) Acknowledging that the office has received the request and providing a reasonable estimate of time required to respond; or
- (c) Denying the request.

(3) The office may request additional time to provide the records based upon the need to:

- (a) Clarify the intent of the request;
- (b) Locate and assemble the information requested;
- (c) Notify third persons or agencies who may be affected by the request; or

(d) Determine whether any of the information requested is exempt and that a denial should be made for all or part of the request.

(4) The public records officer may, if it deems the request is unclear, ask the requester to clarify the information the requester is seeking. If the requester fails to clarify the request, the office need not respond to it.

(5) Public records shall be available for inspection in the office from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays and during board meetings.

(6) No fee shall be charged for the inspection of public records. For printed, typed and written public records of a maximum size of 8 1/2" by 14", the board shall charge twenty-five cents per page to reimburse the board for the actual costs of providing the copies and the use of copying equipment. Copies of maps, photos, films, recordings, and other nonstandard public records shall be furnished at the board's actual costs. The board shall charge the current rate for tax and shipping on all disclosure copying requests. The public records officer may waive the fees when the expense of processing the payment exceeds the cost of providing the copies. Before releasing the copies, the public records officer may require ((that all charges be paid in advance of release of the copies)) a deposit not to exceed ten percent of the estimated cost.

(7) The public records officer may determine that all or a portion of a public record is exempt under the provisions of chapter ((42.17)) 42.56 RCW. Pursuant to RCW ((42.17-260)) 42.56.070(1) and ((42.17.310(2))) 42.56.210(1), the public records officer may delete portions of public records. The public records officer will explain the reasons for such deletion in writing, including the exemption that applies.

(8) Any denial of a request for public records shall be in writing, specifying the reason for the denial, including the specific exemption authorizing the nondisclosure of the record, and a brief explanation of how the exemption applies to the records withheld.

(9) Any person who objects to a denial of a request for a public record may request review of such decision by submitting a written request to the public records officer. The written request shall specifically refer to the written statement by the public records officer or designee which constituted or accompanied the denial.

(10) Immediately after receiving a written request for review of a decision denying disclosure of a public record, the public records officer or designee denying the request shall refer it to the chair of the board. The chair shall consider the matter and either affirm or reverse such denial.

(11) Administrative remedies shall not be considered exhausted until the chair of the board or designee has returned the request for review with a decision or until the close of the second business day following receipt of the written request for review of the denial of the public record, whichever occurs first.

AMENDATORY SECTION (Amending WSR 04-05-122, filed 2/18/04, effective 3/20/04)

WAC 222-08-140 Definitions. (1) "Board" means forest practices board.

(2) "Board staff" means employees of the forest practices division of the department who work in support of the board.

(3) "Department" means department of natural resources.

(4) "Office" means the administrative office of the board in the forest practices division of the department.

(5) "Public record" as defined in RCW ((42.17.020(3))) 42.56.010(2), means any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(6) "Writing" as defined in RCW ((42.17.020(4))) 42.56.010(3), means handwriting, typewriting, printing, photographing, including, but not limited to, letters, words, pictures, sounds, and all papers, maps, magnetic or paper tapes, photographic films and prints, video recordings, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

NEW SECTION

WAC 222-08-141 Orientation and training. The department shall be responsible for a continuing program of orientation and training, relating to forest practices and rules thereof, pursuant to RCW 76.09.250. Such program shall include:

(1) Investigation of current developments in a practical applications of forest resources and related technology.

(2) Continuing training of department personnel in the current status of forest resources technology and related disciplines.

(3) Dissemination of information on current forest practice technology to the public, in a manner determined by the department to be effective.

AMENDATORY SECTION (Amending WSR 04-05-122, filed 2/18/04, effective 3/20/04)

WAC 222-08-150 Function, organization, and office.

(1) The forest practices board was created by chapter 76.09 RCW to adopt forest practices rules as described in WAC 222-12-010.

(2) The board's membership as described in RCW 76.09.030(1), consists of ((twelve)) thirteen members to include:

(a) The commissioner of public lands or the commissioner's designee((;));

(b) The director of the department of community, trade, and economic development or the director's designee((;));

(c) The director of the department of agriculture or the director's designee((;));

(d) The director of the department of ecology or the director's designee((;));

(e) The director of the department of fish and wildlife or the director's designee((7));

(f) An elected member of a county legislative authority appointed by the governor so long as that member serves as an elected official((, and));

(g) A member representing a timber products union, appointed by the governor from a list of three names submitted by a timber labor coalition affiliated with a statewide labor organization that represents a majority of the timber product unions in the state; and

(h) Six members of the general public appointed by the governor, one of whom shall be ((an owner of not more than five hundred acres of forest)) a small forest landowner who actively manages his or her land, and one of whom shall be an independent logging contractor.

(3) The ((six)) governor-appointed members ((from the general public)) are appointed to four-year terms.

(4) The commissioner of public lands or designee shall chair the board.

((3)) (5) General public members of the board, except public employees and elected officials, shall be compensated in accordance with RCW 43.03.250. Each member shall be entitled to reimbursement for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060.

((4)) (6) Staff support is provided to the board as provided in RCW 76.09.030(6). Staff shall perform the following duties under the general authority and supervision of the board:

- (a) Act as administrative arm of the board;
- (b) Act as records officer to the board;
- (c) Coordinate the policies and activities of the board; and
- (d) Act as liaison between the board and other public agencies and stakeholders.

((5)) (7) The administrative office of the board is located at 1111 Washington Street S.E., Olympia, Washington. The board may sit or hold hearings anywhere in the state. The office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday, except legal holidays and during board meetings. The board may be contacted at:

Forest Practices Board
c/o Department of Natural Resources
Forest Practices Division
P.O. Box 47012
Olympia, WA 98504-7012
Phone: 360-902-1400
Fax: 360-902-1428
E-mail: ((forest.practicesboard@wadnr.gov)) forest.practicesboard@dnr.wa.gov

((6)) (8) Any person may contact the board as indicated in subsection ((5)) (7) of this section to obtain information on board activities.

NEW SECTION

WAC 222-08-151 Reporting procedures. The department shall:

(1) Survey and identify all silviculturally related non-point sources of pollution and related control programs in the state;

(2) Prepare an analysis of the above activities and programs; and

(3) Report and recommend to the forest practices board and to the governor additional rules, procedures and/or methods necessary for the control of such sources to the extent feasible.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-08-160 Continuing review of forest practices rules. *(1) Annual evaluations. The department, after consulting with affected state agencies, Indian tribes, forest landowners, fish and wildlife, natural resources, and environmental interest groups, shall report annually to the forest practices board. This reporting will be an assessment of how the rules and voluntary processes, including the Cultural Resources Protection and Management Plan, as committed in the *1999 Forests and Fish Report*, Appendix O (O.3), are working.

*(2) Adaptive management program. The adaptive management program will be used to determine the effectiveness of forest practices rules in aiding the state's salmon recovery effort and provide recommendations to the board on proposed changes to forest practices rules to meet timber industry viability and salmon recovery. The program provides assurances that rules and guidance not meeting aquatic resource objectives will be modified in a streamlined and timely manner. The board may also use this program to adjust other forest practices rules and guidance in order to further the purposes of chapter 76.09 RCW. The specific components of the adaptive management program are set forth in WAC 222-12-045.

(3) Resource management plans. The department is directed to develop a method for cooperative voluntary resource management planning among forest landowners, governmental agencies, affected Indian tribes, and environmental groups which would result in the development of plans which might be used as an alternative to the forest practices rules in achieving the purposes and policies set forth in the act. This should be done through pilot projects, at least one of which should be located on the east side of the Cascade summit and one on the west side of the Cascade summit.

(4) Compliance monitoring. The department shall conduct compliance monitoring that addresses the following key question: "Are forest practices being conducted in compliance with the rules?" The department shall provide statistically sound, biennial compliance audits and monitoring reports to the board for consideration and support of rule and guidance analysis. Compliance monitoring shall determine whether forest practices rules are being implemented on the ground. An infrastructure to support compliance will include adequate compliance monitoring, enforcement, training, education and budget.

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
222-08-140	222-08-025
222-08-150	222-08-032

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-10-010 Policies and authorities. (1) This chapter is promulgated pursuant to the authority granted in RCW 76.09.010, 43.21C.120 and chapter 197-11 WAC.

(2) The forest practices board, according to RCW 76.09.040, possesses the authority to promulgate forest practices rules establishing minimum standards for forest practices and setting forth necessary administrative provisions.

(3) The forest practices board adopts by reference the policies of SEPA as set forth in RCW 43.21C.020.

(4) A forest practices application or notification which requires a threshold determination will be conditioned when necessary to mitigate specific adverse impacts which are identified in the environmental documents prepared under SEPA. An application or notification will be ((denied)) disapproved when the proposal would result in significant adverse impacts identified in a final or supplemental environmental impact statement prepared under SEPA, and reasonable mitigation measures are insufficient to mitigate the identified impacts and denial is consistent with all provisions of the acts cited in subsection (1) of this section.

(5) SEPA policies and procedures shall be implemented by the department of natural resources.

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

WAC 222-10-110 Board's SEPA public information center. ((There is hereby established in the)) In accordance with chapter 42.56 RCW, the location of the board's SEPA public records is the Natural Resources Building, ((4th Floor)) Forest Practices Division, Olympia, Washington((, the location of the board's SEPA public records in accordance with chapter 42.17 RCW)).

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-12-010 Authority. These forest practices rules are adopted pursuant to chapter 76.09 RCW, RCW 76.13.100 through 76.13.130, and RCW 77.85.180 through 77.85.190. Where necessary to accomplish the purposes and policies stated in the act, the board is authorized to promulgate forest practices rules pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in the act. These rules establish minimum standards for forest practices, provide procedures for the voluntary development of resource management plans, set forth necessary administrative provisions, establish procedures for the collection and administration of forest practices fees, allow for the develop-

ment of watershed analyses, foster cooperative relationships and agreements with affected tribes, and establish the riparian open space program. The board also establishes which forest practices will be included within each class and is authorized to adopt rules under RCW 76.09.055, 76.09.370, and 76.13.-120(9).

Promulgation of all forest practices rules shall be accomplished so that compliance with such forest practices rules will achieve compliance with the water quality laws.

Those rules marked with an asterisk (*) pertain to water quality protection; pursuant to RCW 76.09.040 they can be amended only by agreement between the board and the department of ecology.

Forest practices rules shall be administered and enforced by the department except as otherwise provided in the act. Such rules shall be administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-12-041 Use of approved state and federal conservation agreements for aquatic resources. (1) Forest practices consistent with an agreement described in subsection (3) below are exempt from the forest practices rules in chapters 222-22 through 222-38 WAC if the following criteria are met:

(a) The forest practices rule pertains to a species included within aquatic resources and that species is covered by an agreement listed in subsection (3) below; and

(b) The primary risk(s) to public resources addressed by the forest practices rules (e.g., delivery of sediment to waters from roads, harvest activities, or mass wasting events; chemical contamination of waters; inadequate recruitment of large woody debris; delivery of thermal energy to waters) is addressed in the agreement. The agreement may address the risk using different prescriptions, approaches, or timing than the forest practices rule.

(2)(a) When the landowner submits an application or notification, the landowner must include a proposed list of specific rules replaced.

(b) The department will review and confirm whether the rules identified by the landowner meet the criteria identified in subsection (1) above.

(c) At the request of the department, the landowner will confer in good faith with the department and provide the department and other interested parties with information necessary to assist the department in implementing this section.

(3) This section applies to landowners who are operating consistent with one of the following agreements that covers a species included within aquatic resources provided that the agreement has received environmental review with an opportunity for public comment under the National Environmental Policy Act, 42 U.S.C. section 4321 et seq., the Endangered Species Act, 16 U.S.C. section 1531 et seq., or the State Environmental Policy Act, chapter 43.21C RCW;

(a) A habitat conservation plan and incidental take permit approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. section 1539(a);

(b) An incidental take statement issued by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. 1536(b);

(c) An "unlisted species agreement" approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; or

(d) A candidate conservation agreement or other cooperative or conservation agreement entered into with a federal or state fish and wildlife agency pursuant to its statutory authority for fish and wildlife protection.

For any agreement with a formal application date after July 1, 2001, the landowner must have made a good faith effort to involve the department of fish and wildlife, the department of ecology, department of natural resources, and affected Indian tribes in the development of the related plan or management strategy.

AMENDATORY SECTION (Amending WSR 94-01-134, filed 12/20/93, effective 1/1/94)

WAC 222-16-060 Lands with a likelihood of future conversion. (1) Prior to identification of any forest lands as having a likelihood of future conversion to urban development within a ten-year period, the department shall consider all available information, including but not limited to:

(a) Whether the land is assessed under the provisions of chapter 84.33 or 84.34 RCW;

(b) Whether the land is excluded from any local improvement district;

(c) Whether the classification of the land in the local comprehensive plan or the local zoning ordinance permits or encourages long-term timber production;

(d) Whether the land lies outside the current or proposed boundary of a city or the urban growth boundary of a city or outside a water or sewer district;

(e) Whether the land has received previous development permit approval;

(f) The presence or absence of a written forest management plan for the land.

Any identification must be consistent with any local or regional land use plans or ordinances.

(2) A local ((government)) governmental entity with jurisdiction or an affected Indian tribe may submit to the department a proposal for identification of forest lands that have the likelihood of future conversion to urban development within a ten-year period.

(3) The department may develop a public participation process when identifying forest lands with a likelihood of future conversion to urban development within a ten-year period.

(4) Forest lands that have been identified by the department prior to the effective date of this section as having a likelihood of future conversion to urban development within a ten-year period shall be reviewed under subsection (1) of this section to determine if the identification should be withdrawn or modified.

(5) A landowner that submits an application or notification in an area that has been identified as having a likelihood of future conversion to urban development within a ten-year period may request the department to reconsider the identification of the affected parcel. The department shall remove

the identification if the landowner complies with (a) of this subsection and at least one from (b) or (c) of this subsection:

(a) The landowner submits a statement of intent not to convert to a use other than commercial timber operation for a period of ten years after completion of the forest practice. The statement shall be on a form prepared by the department and shall indicate the landowner is aware of the provisions of RCW 76.09.060 (3)(b); and

(b) The land is enrolled under the provisions of chapter 84.28, 84.33, or 84.34 RCW; or

(c) A written forest management plan for the land covering the next ten years has been reviewed and accepted by the department.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-16-105 Cooperative habitat enhancement agreements.

(1) Purpose. A cooperative habitat enhancement agreement (CHEA) is intended to remove disincentives for landowners who create, enhance, or maintain habitat for the northern spotted owl or marbled murrelet by providing them with protection against future spotted owl or marbled murrelet rules caused by their enhancement activities. A CHEA is an agreement between the department and a landowner, developed in cooperation with the department of fish and wildlife, for the purpose of creating, enhancing, or maintaining northern spotted owl habitat and/or marbled murrelet habitat. The agreement will apply only to forest land identified by the landowner:

(a) For northern spotted owls, outside of the median home range circles of northern spotted owl site centers in existence at the time of implementation.

(b) For marbled murrelets, any current unoccupied or potential future habitat.

(2) Authority. Outside of the median home range circles of northern spotted owls or an occupied marbled murrelet site, the department, in consultation with the department of fish and wildlife, may enter into agreements with nonfederal landowners to create, enhance, or maintain habitat that the northern spotted owl and/or the marbled murrelet can be expected to utilize. During the term of these agreements, forest practices covered by the agreements shall not be classified as Class IV-Special on the basis of critical habitat (state) or critical habitat (federal) for the northern spotted owl or the marbled murrelet. This does not preclude classification as Class IV-Special because of the presence of other factors listed in WAC 222-16-050(1).

(3) Baseline.

(a) Each agreement shall identify a baseline level of habitat, and the department shall not permit forest practices that reduce the habitat below the baseline during the term of the agreement.

(b) For northern spotted owls, the baseline may range from zero habitat to the overall levels of suitable spotted owl habitat and dispersal habitat that existed across the land in question at the time the agreement is entered into.

(c) For marbled murrelets, the baseline may range from zero habitat to the overall levels of suitable marbled murrelet

habitat that existed across the land in question at the time the agreement is entered into.

(d) The department shall determine, working with the landowner and in consultation with the department of fish and wildlife, the appropriate baseline, taking into consideration:

(i) The size of the landowner's ownership and the ability of the landowner to maintain habitat conditions across the landscape in question over time;

(ii) The overall benefits of the agreement to the northern spotted owl or marbled murrelet including both the proposed measures to create, enhance, or maintain habitat and the proposed baseline levels; and

(iii) The term of the agreement.

(4) Form and content of CHEAs.

(a) The department shall, in consultation with the department of fish and wildlife, have the authority to define the form and content of CHEAs. The form and content may vary among agreements, but each must provide sufficient information for the department, the public, and other reviewers to understand and evaluate the agreement against the standards established under this section.

(b) For northern spotted owls, in addition to the elements required by the department, each agreement shall include a plan to avoid harvesting, road construction, or the aerial application of pesticides, between March 1 and August 31, on the seventy acres of highest quality suitable spotted owl habitat surrounding any known northern spotted owl site centers on lands covered by the agreement.

(5) **Approval of a CHEA.** Upon receipt of a CHEA, the department shall circulate the agreement to the department of fish and wildlife, affected Indian tribes, local ((government)) governmental entities, other forest landowners in the SOSEA (if the CHEA is in a SOSEA), and the public for review and comment. Within sixty days of receipt of the agreement, the department shall review the comments and approve or disapprove the agreement or submit the agreement to the landowner to revise as appropriate. The department, after consultation with the department of fish and wildlife, may approve the agreement if the agreement will create, enhance, or maintain habitat conditions for:

(a) The northern spotted owl in a manner that provides a measurable contribution toward meeting the goals of the SOSEA or a measurable benefit to northern spotted owls outside SOSEAs.

(b) The marbled murrelet in a manner that provides a measurable benefit to the species.

(6) **Enforcement of CHEAs.** The department shall review all applications and notifications from the landowner, proposed within the agreement area, for consistency with the agreement. Any applications or notifications found to be inconsistent with the agreement shall be returned to the landowner for modification. After landowner review, applications and notifications which are not consistent with the agreement shall be classified based on the rules in effect at the time of application and without any of the benefits of the agreement.

AMENDATORY SECTION (Amending WSR 03-06-039, filed 2/26/03, effective 3/29/03)

WAC 222-21-010 Definitions. The following definitions apply to this chapter:

(1) "**Commercially reasonable harvest unit**" means a harvest area that meets the requirements of WAC 222-21-060.

(2) "**Completion of harvest**" means that the trees have been harvested from an area under an approved forest practices application and that further entry into that area by any type of logging or slash treating equipment or method is not expected.

(3) "**Compliance costs**" includes the cost of preparing and recording the easement, and any business and occupation tax and real estate excise tax imposed because of entering into the easement.

(4) "**Danger tree**" means any qualifying timber reasonably perceived to pose an imminent danger to life or improved property.

(5) "**Easement premises**" means the geographic area designated in a forestry riparian easement, including the areas in which qualifying timber is located. Easement premises may be categorized as follows:

(a) **Riparian area easement premises** means riparian areas and areas upon which qualifying timber associated with riparian areas are located.

(b) **Other easement premises** means areas of land required to be left unharvested under rules adopted under RCW 76.09.055 or 76.09.370 including areas upon which other qualifying timber outside riparian areas is located and areas of land upon which uneconomic qualifying timber is located.

(6) "**Forestry riparian easement**" means an easement covering qualifying timber granted voluntarily to the state by a small forest landowner.

(7) "**Hazardous substances**" means hazardous substances as defined in RCW 70.102.010(5), and 70.105D.020 (7), and solid waste as defined in RCW 70.95.030(22).

(8) "**High impact regulatory threshold**" means the threshold where the value of qualifying timber is greater than 19.1% (for timber in Western Washington) or 12.2% (for timber in Eastern Washington) of the value of the harvested timber and qualifying timber under the approved forest practices application covering the qualifying timber.

(9) "**Qualifying timber**" means those trees covered by a forest practices application that the small forest landowner is required to leave unharvested under rules adopted under RCW 76.09.055 or 76.09.370 or that are made uneconomic to harvest by those rules, and for which the small forest landowner is willing to grant the state a forestry riparian easement. Qualifying timber is timber within or bordering a commercially reasonable harvest unit, or timber for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under these rules. Qualifying timber is categorized as follows:

(a) **Permanent qualifying timber** includes trees that shall not be harvested or damaged or removed from the easement premises during the term of the easement.

(i) Where permanent qualifying timber is in areas in which no harvest may take place, the easement shall describe

the boundaries of the areas. No harvest of any tree within this area shall take place during the term of the easement.

(ii) Where permanent qualifying timber is located in areas in which selective harvest may take place, the permanent qualifying timber must be tagged for the duration of the easement.

(b) **Reserve qualifying timber** includes trees that may be harvested and removed but only in compliance with the terms of the easement. Reserve qualifying timber shall be identified separately from the permanent qualifying timber.

(c) **Replacement qualifying timber** includes trees which, in the future, will be substituted for the reserve qualifying timber before the reserve qualifying timber may be harvested or removed from the property. Replacement qualifying timber will be selected from time to time pursuant to the provisions of the easement and will be subject to the terms and protections of the easement.

(d) **Uneconomic qualifying timber** includes trees made uneconomical to harvest. The trees are considered permanent qualifying timber and may not be harvested or otherwise damaged during the term of the easement.

(e) **Other qualifying timber outside riparian areas** includes trees that may not be harvested under forest practices rules adopted under RCW 76.09.055 or 76.09.370 for reasons other than protection of riparian functions. It includes without limitation trees that are unharvestable because of public safety concerns. The trees are considered permanent qualifying timber and may not be harvested or otherwise damaged during the term of the easement.

(10) "**Reimbursement**" means the repayment that the department shall provide to small forest landowners for the actual costs incurred for laying out the streamside buffers and marking the qualifying timber once a contract has been executed for the forestry riparian easement program.

(11) "**Riparian areas**" include the areas designated in a forestry riparian easement. Riparian areas include without limitation all riparian and other special management zones required by the forest practices rules for protection of aquatic resources and includes associated qualifying timber.

(12) "**Riparian function**" includes bank stability, recruitment of woody debris, leaf litter fall, nutrients, sediment filtering, shade, and other riparian features that are important to both riparian forest and aquatic systems conditions.

(13) "**Small forest landowner**" means:

(a) A forest landowner meeting all of the following characteristics as of the date a forest practices application is received (see WAC 222-20-010((84))(7)), or the date the landowner provides written notification to the small forest landowner office that the harvest is to begin, for which the forestry riparian easement is associated:

(i) Is an individual, partnership, corporate, or other non-governmental legal entity. If a landowner grants timber rights to another entity for less than five years, the landowner may still qualify as a small forest landowner under this section;

(ii) Has a fee interest in the land and timber or has rights to harvest the timber to be included in the forestry riparian easement that extend at least fifty years from the date the forest practices application associated with the easement is received;

(iii) Has harvested from its own lands in this state during the three years prior to the year of application an average timber volume that would qualify the forest landowner as a small harvester under RCW 84.33.035(14); and

(iv) Certifies at the time the forest practices application is received that it does not expect to harvest from its own lands more than the volume allowed by RCW 84.33.035(14) during the ten years following receipt of the application.

(b) A forest landowner whose prior three-year average harvest exceeds the limit of RCW 84.33.035(14), or who expects to exceed this limit during the ten years following receipt of the forest practices application, may still qualify as a small forest landowner if that landowner establishes to the small forest landowner office reasonable satisfaction that the harvest limits were or will be exceeded to raise funds to pay estate taxes or equally compelling and unexpected obligations such as court-ordered judgments or extraordinary medical expenses. (Note: The small forest landowner office will establish a board manual governing these exceptions.)

(c) A landowner may still qualify as a small forest landowner if the landowner is unable to obtain an approved forest practices application for timber harvest for any of his or her land because of restrictions under the forest practices rules adopted under RCW 76.09.055 or 76.09.370.

(14) "**Small forest landowner office**" is an office within the department described in RCW 76.13.110, and it shall be a resource and focal point for small landowner concerns and policies and shall have significant expertise regarding the management of small forest holdings and government programs applicable to such holdings, and the forestry riparian easement program.

(15) "**Uneconomic to harvest**" means that a harvest area meets the requirements of WAC 222-21-065.

AMENDATORY SECTION (Amending WSR 03-06-039, filed 2/26/03, effective 3/29/03)

WAC 222-21-035 Description of easement. The easement premises and qualifying timber must be described as follows:

(1) Range, township, section, and parcel number;

(2) Forest practice base map of proposed harvest, other forest practices activities and easement;

(3) 1:400 map of the easement premises indexed either to one legal land survey point or two geopositional system points; and

(4) Traverse of the easement premises tied to subsection (3) of this section. (See the board manual section 17 for standards of traverse.)

(5) Where the department does not have satisfactory access to the easement premises, the landowner must designate the access route on the forest practices application base map.

AMENDATORY SECTION (Amending WSR 03-06-039, filed 2/26/03, effective 3/29/03)

WAC 222-21-050 Payment of compensation. (1) The compensation offered to the small forest landowner will be 50% of the fair market value of the qualifying timber established under the process described in WAC 222-21-045, plus

the compliance and reimbursement costs, subject to the following exceptions:

(a) If the high impact regulatory threshold is exceeded for an area covered by an approved forest practices application, then the compensation offered will be increased to 100% for the value of the qualifying timber where the high impact regulatory threshold is exceeded. Use the following calculation:

Where:

V_q = value of qualifying timber;

V_h = value of harvested timber;

t = high impact of regulatory threshold (19.1% for Western Washington, 12.2% for Eastern Washington);

TV = total value of all timber covered under FPA = $V_q + V_h$; and

HIO - high impact override = $(V_q/TV) - t$;

$$\text{Compensation for easement} = (HIO \cdot TV) + \left(\frac{t \cdot TV}{2} \right)$$

See Section 17 of board manual for example.

(b) All compensation is subject to available funding.

(2) If funding is not available, the small forest landowner office will maintain a priority list for compensation. Priority will be based on (a) date of receipt of forest practices application and (b) date of receipt of completed harvest status questionnaire.

(3) Reimbursement costs for easement layout are subject to the work being acceptable to the department. The small forest landowner office shall determine how the reimbursement costs will be calculated. The small forest landowner office will send the small forest landowner a notice of compensation decision within 60 days of completion of the timber cruise.

(4) Compensation for a forestry riparian easement associated with an approved forest practices application will not be paid until:

(a) The department has documented completion of harvest;

(b) The department has verified that there has been compliance with the rules requiring leave trees in the easement area;

(c) Any dispute over the amount of compensation or eligibility or other matter involving the forestry riparian easement has been resolved; and

(d) The forestry riparian easement has been executed and delivered to the department.

(5) Compensation for a forestry riparian easement for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under these rules adopted under RCW 76.09.055 or 76.09.370 will not be paid until:

(a) The department has verified that there has been compliance with the rules requiring leave trees in the easement area; and

(b) Any dispute over the amount of compensation or eligibility or other matter involving the forestry riparian easement has been resolved; and

(c) The forestry riparian easement has been executed and delivered to the department.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-22-020 Watershed administrative units.

*(1) For purposes of this chapter, the state is divided into areas known as watershed administrative units (WAUs). The department shall, in cooperation with the departments of ecology, fish and wildlife, affected Indian tribes, local government entities, forest land owners, and the public, define WAUs throughout the state. The department shall identify WAUs on a map.

*(2) WAUs should generally be between 10,000 to 50,000 acres in size and should be discrete hydrologic units. The board recognizes, however, that identified watershed processes and potential effects on resource characteristics differ, and require different spatial scales of analysis, and the department's determination of the WAUs should recognize these differences. The board further recognizes that mixed land uses will affect the ability of a watershed analysis to predict probabilities and identify causation as required under this chapter, and the department's conduct and approval of a watershed analysis under this chapter shall take this effect into account.

*(3) The department is directed to conduct periodic reviews of the WAUs adopted under this chapter to determine whether revisions are needed to more efficiently assess potential cumulative effects. The department shall consult with the departments of ecology, fish and wildlife, affected Indian tribes, forest land owners, local government entities, and the public. From time to time and as appropriate, the department shall make recommendations to the board regarding revision of watershed administrative units.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-22-050 Level 1 watershed resource assessment.

*(1) To begin a watershed resource analysis on a WAU, the department shall assemble a level 1 assessment team consisting of analysts qualified under WAC 222-22-030(1). A forest land owner or owners acting under WAC 222-22-040(3) may assemble a level 1 assessment team consisting of analysts qualified under WAC 222-22-030(1) or, at its option, may begin the analysis under WAC 222-22-060. Each level 1 team shall include persons qualified in the disciplines indicated as necessary in the methodology, and should generally include a person or persons qualified in the following:

- (a) Forestry;
- (b) Forest hydrology;
- (c) Forest soil science or geology;
- (d) Fisheries science;
- (e) Geomorphology;
- (f) Cultural anthropology; and
- (g) Archaeology.

Any owner, and any cooperating group of owners, of ten percent or more of the nonfederal forest land acreage in the WAU and any affected Indian tribe shall be entitled to include one qualified individual to participate on the team at its own expense. The cultural resources module must include the participation of the affected Indian tribe(s). See board manual section 11, J. Cultural Resources Module, Introduction, 1) *Using this methodology in formal watershed analysis*.

(2) The level 1 team shall perform an inventory of the WAU utilizing the methodology, indices of resource condition, and checklists set forth in the manual in accordance with the following:

(a) The team shall survey the WAU for fish, water, and capital improvements of the state or its political subdivisions, and conduct an assessment for cultural resources.

(b) The team shall display the location of these resources on a map of the WAU, except mapping of tribal cultural resources sites must be approved by the affected tribe. The location of archaeological sites shall be on a separate map that will be exempt from public disclosure per RCW ((42.17.310 (1)(k))) 42.56.300.

(c) For public resources (fish, water, and capital improvements of the state or its political subdivisions):

(i) The team shall determine the current condition of the resource characteristics of these resources, shall classify their condition as "good," "fair," or "poor," and shall display this information on the map of the WAU. The criteria used to determine current resource conditions shall include indices of resource condition, in addition to such other criteria as may be included in the manual. The indices will include two levels, which will distinguish between good, fair, and poor conditions.

(ii) The team shall assess the likelihood that identified watershed processes in a given physical location will be adversely changed by one forest practice or by cumulative effects and that, as a result, a material amount of water, wood, sediment, or energy (e.g., affecting temperature) will be delivered to fish, water, or capital improvements of the state or its political subdivisions. (This process is referred to in this chapter as "adverse change and deliverability.") (For example, the team will address the likelihood that road construction will result in mass wasting and a slide that will in turn reach a stream.) The team shall rate this likelihood of adverse change and deliverability as "high," "medium," "low," or "indeterminate." Those likelihoods rated high, medium, or indeterminate shall be displayed on the map of the WAU.

(iii) For each instance of high, medium, or indeterminate likelihood of adverse change and deliverability identified under (c)(ii) of this subsection, the team shall assess the vulnerability of potentially affected resource characteristics. Criteria for resource vulnerability shall include indices of resource condition as described in (c)(i) of this subsection and quantitative means to assess the likelihood of material adverse effects to resource characteristics caused by forest practices. (For example, the team will assess the potential damage that increased sediment caused by a slide reaching a stream will cause to salmon spawning habitat that is already in fair or poor condition.) The team shall rate this vulnerability "high," "medium," "low," or "indeterminate" and shall display those vulnerabilities on the map of the WAU. If there

are no other criteria in the manual to assess vulnerability at the time of the assessment, current resource condition shall be used, with good condition equivalent to low vulnerability, fair condition equivalent to medium vulnerability, and poor condition equivalent to high vulnerability.

(iv) The team shall identify as areas of resource sensitivity, as provided in table 1 of this section, the locations in which a management response is required under WAC 222-22-070(3) because, as a result of one forest practice or of cumulative effects, there is a combination of a high, medium, or indeterminate likelihood of adverse change and deliverability under (c)(ii) of this subsection and a low, medium, high, or indeterminate vulnerability of resource characteristics under (c)(iii) of this subsection:

Table 1
Areas of Resource Sensitivity and Management Response

Likelihood of Adverse Change and Deliverability

	Low	Medium	High
Vulnerability	Standard rules	Standard rules	Response: Prevent or avoid
Medium	Standard rules	Response: Minimize	Response: Prevent or avoid
High	Standard rules	Response: Prevent or avoid	Response: Prevent or avoid

The team shall display the areas of resource sensitivity on the map of the WAU.

(v) The decision criteria used to determine low, medium, and high likelihood of adverse change and deliverability shall be as set forth in the manual. A low designation generally means there is minimal likelihood that there will be adverse change and deliverability. A medium designation generally means there is a significant likelihood that there will be adverse change and deliverability. A high designation generally means that adverse change and deliverability is more likely than not with a reasonable degree of confidence. Any areas identified as indeterminate in the level 1 assessment shall be classified for the purposes of the level 1 assessment as medium until a level 2 assessment is done on the WAU under WAC 222-22-060, during which the uncertainties shall be resolved.

(d) For cultural resources, the team shall follow the methodology outlined in the cultural resources module to determine the risk call for cultural resources based upon resource vulnerability and resource importance.

(e) The team shall prepare a causal mechanism report regarding the relationships of each process identified in (c) and (d) of this subsection. The report shall demonstrate that the team's determinations were made in accordance with the manual. If, in the course of conducting a level 1 assessment, the team identifies areas in which voluntary corrective action will significantly reduce the likelihood of material, adverse effects to the condition of a resource characteristic, the team shall include this information in the report, and the department shall convey this information to the applicable land owner.

***(3)** Within 21 days of mailing notice under WAC 222-22-040(4), the level 1 team shall submit to the department its draft level 1 assessment, which shall consist of the map of the WAU marked as set forth in this section and the causal mechanism report proposed under subsection (2)(e) of this section. If the level 1 team is unable to agree as to one or more resource sensitivities or potential resource sensitivities, or the causal mechanism report, alternative designations and an explanation therefor shall be included in the draft assessment. Where the draft level 1 assessment delivered to the department contains alternative designations, the department shall within 21 days of the receipt of the draft level 1 assessment make its best determination and approve that option which it concludes most accurately reflects the proper application of the methodologies, indices of resource condition, and checklists set forth in the manual.

***(4)** If the level 1 assessment contains any areas in which the likelihood of adverse change and deliverability or resource vulnerability are identified as indeterminate under this section or if the level 1 methodology recommends it, the department shall assemble a level 2 assessment team under WAC 222-22-060 to resolve the uncertainties in the assessment, unless a forest land owner acting under WAC 222-22-040(3) has conducted a level 2 assessment on the WAU.

***(5)** Pending the completion of the level 2 assessment, if any, on the WAU, the department shall select interim prescriptions using the process and standards described in WAC 222-22-070 (1), (2), and (3) and 222-22-080(3) and shall apply them to applications and notifications as provided in WAC 222-22-090 (1) and (2). Before submitting recommended interim prescriptions to the department, the field managers' team under WAC 222-22-070(1) shall review the recommended prescriptions with available representatives of the jurisdictional management authorities of the fish, water, capital improvements of the state or its political subdivisions, and cultural resources in the WAU, including, but not limited to, the departments of fish and wildlife, ecology, and affected Indian tribes.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-30-021 *Western Washington riparian management zones. These rules apply to all typed waters on forest land in Western Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in this section. See the board manual section 7 for riparian design and layout guidelines.

***(1) Western Washington RMZs for Type S and F Waters** have three zones: The core zone is nearest to the water, the inner zone is the middle zone, and the outer zone is furthest from the water. (See definitions in WAC 222-16-010.) RMZ dimensions vary depending on the site class of the land, the management harvest option, and the bankfull width of the stream. See tables for management options 1 and 2 below.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in

WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in WAC 222-30-060(1).

The shade requirements in WAC 222-30-040 must be met regardless of harvest opportunities provided in the inner zone RMZ rules. See the board manual section 1.

(a) Core zones. No timber harvest or construction is allowed in the core zone except operations related to forest roads as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors in the core zone must be left on the site. Any trees cut as a result of road construction to cross a stream may be removed from the site, unless used as part of a large woody debris placement strategy or as needed to reach stand requirements.

(b) Inner zones. Forest practices in the inner zone must be conducted in such a way as to meet or exceed stand requirements to achieve the goal in WAC 222-30-010(2). The width of the inner zone is determined by site class, bankfull width, and management option. Timber harvest in this zone must be consistent with the stand requirements in order to reach the desired future condition targets.

"Stand requirement" means a number of trees per acre, the basal area and the proportion of conifer in the combined inner zone and adjacent core zone so that the growth of the trees would meet desired future conditions. The following table defines basal area targets when the stand is 140 years old.

Site Class	Desired future condition target basal area per acre (at 140 years)
I	285 sq. ft.
II	275 sq. ft.
III	258 sq. ft.
IV	224 sq. ft.
V	190 sq. ft.

Growth modeling is necessary to calculate whether a particular stand meets stand requirement and is on a trajectory towards these desired future condition basal area target. The appropriate growth model will be based on stand characteristics and will include at a minimum, the following components: The number of trees by diameter class, the percent of conifer and hardwood, and the age of the stand. See the board manual section 7.

(i) Hardwood conversion in the inner zone. When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone, except in connection with hardwood conversion.

(A) The landowner may elect to convert hardwood-dominated stands in the **inner zone** to conifer-dominated stands. Harvesting and replanting shall be in accordance with the following limits:

(I) Conversion activities in the **inner zone** of any harvest unit are only allowed where all of the following are present:

- Existing stands in the combined core and inner zone do not meet stand requirements (WAC 222-30-021 (1)(b));
- There are fewer than 57 conifer trees per acre 8 inches or larger dbh in the conversion area;
- There are fewer than 100 conifer trees per acre larger than 4 inches dbh in the conversion area;

- There is evidence (such as conifer stumps, historical photos, or a conifer understory) that the conversion area can be successfully reforested with conifer and support the development of conifer stands;

- The landowner owns 500 feet upstream and 500 feet downstream of the harvest unit;

- The core and inner zones contain no stream adjacent parallel roads;

- Riparian areas contiguous to the proposed harvest unit are owned by the landowner proposing to conduct the conversion activities, and meet shade requirements of WAC 222-30-040 or have a 75-foot buffer with trees at least 40 feet tall on both sides of the stream for 500 feet upstream and 500 feet downstream of the proposed harvest unit (or the length of the stream, if less);

- If the landowner has previously converted hardwood-dominated stands, then post-harvest treatments must have been performed to the satisfaction of the department.

(II) In addition to the conditions set forth above, permitted conversion activities in the **inner zone** of any harvest unit are limited by the following:

- Each continuous conversion area is not more than 500 feet in length; two conversion areas will be considered "continuous" unless the no-harvest area separating the two conversion areas is at least half the length of the larger of the two conversion areas.

- Type S and F (Type 1, 2, or 3) Water: Up to 50% of the inner zone area of the harvest unit on one side of the stream may be converted provided that:

- ◆ The landowner owns the opposite side of the stream and the landowner's riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall or;

- ◆ The landowner does not own land on the opposite side of the stream but the riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall.

- Not more than 25% of the inner zone of the harvest unit on both sides of a Type S or F Water may be converted if the landowner owns both sides.

(III) Where conversion is allowed in the **inner zone**, trees within the conversion area may be harvested except that:

- Conifer trees larger than 20 inches dbh shall not be harvested;

- Not more than 10% of the conifer stems greater than 8 inches dbh, exclusive of the conifer noted above, within the conversion area may be harvested; and

- The landowner must exercise reasonable care in the conduct of harvest activities to minimize damage to all residual conifer trees within the conversion area including conifer trees less than 8 inches dbh.

(IV) Following harvest in conversion areas, the landowner must:

- Reforest the conversion area with **conifer** tree species suitable to the site in accordance with the requirements of WAC 222-34-010; and

- Conduct post-harvest treatment of the site until the conifer trees necessary to meet acceptable stocking levels in WAC 222-34-010(2) have crowns above the brush or until the conversion area contains a minimum of 150 conifer trees greater than 8 inches dbh per acre.

- Notify the department in writing within three years of the approval of the forest practices application for hardwood conversion, if the hardwood conversion has been completed.

(V) **Tracking hardwood conversion.** The purpose of tracking hardwood conversion is to determine if hardwood conversion is resulting in adequate enhancement of riparian functions toward the desired future condition while minimizing the short term impacts on functions. The department will use existing or updated data bases developed in cooperation with the Washington Hardwoods Commission to identify watershed administrative units (WAUs) with a high percentage of hardwood-dominated riparian areas and, thus have the potential for excessive hardwood conversion under these rules. The department will track the rate of conversion of hardwoods in the riparian zone: (1) Through the application process on an annual basis; and (2) at a WAU scale on a biennial basis as per WAC 222-30-120 through the adaptive management process which will develop thresholds of impact for hardwood conversion at the watershed scale.

(ii) Harvest options.

(A) No inner zone management. When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone. When no harvest is permitted in the inner zone or the landowner chooses not to enter the inner zone, the width of core, inner and outer zones are as provided in the following table:

No inner zone management RMZ widths for Western Washington

Site Class	RMZ width	Core zone width (measured from outer edge of bank-full width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
I	200'	50'	83'	100'	67'	50'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(B) Inner zone management. If trees can be harvested and removed from the inner zone because of surplus basal area consistent with the stand requirement, the harvest and removal of the trees must be undertaken consistent with one of two options:

(I) **Option 1. Thinning from below.** The objective of thinning is to distribute stand requirement trees in such a way as to shorten the time required to meet large wood, fish habitat and water quality needs. This is achieved by increasing the potential for leave trees to grow larger than they otherwise would without thinning. Thinning harvest under option 1 must comply with the following:

- Residual trees left in the combined core and inner zones must meet stand requirements necessary to be on a trajectory

Option 1. Thinning from below.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
I	200'	50'	83'	100'	67'	50'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(II) **Option 2. Leaving trees closest to the water.** Management option 2 applies only to riparian management zones for site class I, II, and III on streams that are less than or equal to 10 feet wide and RMZs in site class I and II for streams greater than 10 feet wide. Harvest must comply with the following:

- Harvest is not permitted within 30 feet of the core zone for streams less than or equal to 10 feet wide and harvest is not permitted within 50 feet of the core zone for streams greater than 10 feet wide;

• Residual leave trees in the combined core and inner zone must meet stand requirements necessary to be on a trajectory to desired future condition. See board manual section 7 for calculating stand requirements;

to desired future condition. See board manual section 7 for guidelines.

- Thinning must be from below, meaning the smallest dbh trees are selected for harvest first, then progressing to successively larger diameters.
- Thinning cannot decrease the proportion of conifer in the stand.
- Shade retention to meet the shade rule must be confirmed by the landowner for any harvest inside of 75 feet from the outer edge of bankfull width or outer edge of CMZ, whichever is greater.
- The number of residual conifer trees per acre in the inner zone will equal or exceed 57.

Option 2. Leaving trees closest to water.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width				Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width ≤10'	stream width >10'	stream width >10'	stream width ≤10'	stream width >10'
			minimum floor distance	(measured from outer edge of core zone)	(measured from outer edge of core zone)	(measured from outer edge of core zone)		
I	200'	50'	84'	30'	84'	50'	66'	66'
II	170'	50'	64'	30'	70'	50'	56'	50'
III	140'	50'	44'	30'	**	**	46'	**

**Option 2 for site class III on streams >10' is not permitted because of the minimum floor (100') constraint.

(iii) **Where the basal area components of the stand requirement cannot be met** within the sum of the areas in the inner and core zone due to the presence of a stream-adjacent parallel road in the inner or core zone, a determination must be made of the approximate basal area that would have been present in the inner and core zones if the road was not occupying space in the core or inner zone and the shortfall in the basal area component of the stand requirement. See definition of "stream-adjacent parallel road" in WAC 222-16-010.

(A) Trees containing basal area equal to the amount determined in (iii) of this subsection will be left elsewhere in the inner or outer zone, or if the zones contain insufficient riparian leave trees, substitute riparian leave trees will be left within the RMZ width of other Type S or F Waters in the same unit or along Type Np or Ns Waters in the same unit in addition to all other RMZ requirements on those same Type S, F, Np or Ns Waters.

(B) When the stream-adjacent road basal area calculated in (iii) of this subsection results in an excess in basal area (above stand requirement) then the landowner may receive credit for such excess which can be applied on a basal area-by-basal area basis against the landowner's obligation to leave trees in the outer zone of the RMZ of such stream or other waters within the same unit, provided that the number of trees per acre in the outer zone is not reduced to less than 10 trees per acre.

(C) When the basal area requirement cannot be met, as explained in (iii) of this subsection, the shortfall may be reduced through the implementation of an acceptable large woody debris placement plan. See board manual section 26 for guidelines.

(iv) If a harvest operation includes both yarding and harvest activities within the RMZ, all calculations of basal area for stand requirements will be determined as if the yarding corridors were constructed prior to any other harvest activities. If trees cut or damaged by yarding are taken from excess basal area, these trees may be removed from the inner zone. Trees cut or damaged by yarding in a unit which does not meet the basal area target of the stand requirements cannot be removed from the inner zone. Any trees cut or damaged by yarding in the core zone may not be removed.

(c) **Outer zones.** Timber harvest in the outer zone must leave 20 riparian leave trees per acre after harvest. "**Outer zone riparian leave trees**" are trees that must be left after harvest in the outer zone in Western Washington. Riparian leave trees must be left uncut throughout all future harvests:

Outer zone riparian leave tree requirements

Application	Leave tree spacing	Tree species	Minimum dbh required
Outer zone	Dispersed	Conifer	12" dbh or greater
Outer zone	Clumped	Conifer	12" dbh or greater
Protection of sensitive features	Clumped	Trees representative of the overstory including both hardwood and conifer	8" dbh or greater

The 20 riparian leave trees to be left can be reduced in number under the circumstances delineated in (c)(iv) of this subsection. The riparian leave trees must be left on the landscape according to one of the following two strategies. A third strategy is available to landowners who agree to a LWD placement plan.

(i) **Dispersal strategy.** Riparian leave trees, which means conifer species with a diameter measured at breast height (dbh) of 12 inches or greater, must be left dispersed approximately evenly throughout the outer zone. If riparian leave trees of 12" dbh or greater are not available, then the next largest conifers must be left. If conifers are not present, riparian leave trees must be left according to the clumping strategy in subsection (ii) below.

(ii) **Clumping strategy.** Riparian leave trees must be left clumped in the following way:

(A) Clump trees in or around one or more of the following **sensitive features** to the extent available within the outer zone. When clumping around sensitive features, riparian leave trees must be 8 inches dbh or greater and representative of the overstory canopy trees in or around the sensitive feature and may include both hardwood and conifer species. Sensitive features are:

(I) Seeps and springs;

(II) Forested wetlands;

(III) Topographic locations (and orientation) from which leave trees currently on the site will be delivered to the water;

(IV) Areas where riparian leave trees may provide windthrow protection;

(V) Small unstable, or potentially unstable, slopes not of sufficient area to be detected by other site evaluations. See WAC 222-16-050 (1)(d).

(VI) ((**Archaeological**)) Archaeological or historical sites registered with the Washington state ((**office**)) department of ((**archeology**)) archaeology and historic preservation. See WAC 222-16-050 (1)(g); or

(VII) Sites containing evidence of Native American cairns, graves or glyptic records. See WAC 222-16-050 (1)(f).

(B) If sensitive features are not present, then clumps must be well distributed throughout the outer zone and the leave trees must be of conifer species with a dbh of 12 inches or greater. When placing clumps, the applicant will consider operational and biological concerns. Tree counts must be satisfied regardless of the presence of stream-adjacent parallel roads in the outer zone.

(iii) **Large woody debris in-channel placement strategy.** A landowner may design a LWD placement plan in cooperation with the department of fish and wildlife. The plan must be consistent with guidelines in the board manual section 26. The landowner may reduce the number of trees required to be left in the outer zone to the extent provided in the approved LWD placement plan. Reduction of trees in the outer zone must not go below a minimum of 10 trees per acre. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW approved hydraulics project approval (HPA) permit.

(iv) **Twenty riparian leave trees must be left after harvest** with the exception of the following:

(A) If a landowner agrees to implement a placement strategy, see (iii) of this subsection.

(B) If trees are left in an associated channel migration zone, the landowner may reduce the number of trees required to be left according to the following:

(I) Offsets will be measured on a basal area-for-basal area basis.

(II) Conifer in a CMZ equal to or greater than 6" dbh will offset conifer in the outer zone at a one-to-one ratio.

(III) Hardwood in a CMZ equal to or greater than 10" dbh will offset hardwood in the outer zone at a one-to-one ratio.

(IV) Hardwood in a CMZ equal to or greater than 10" dbh will offset conifer in the outer zone at a three-to-one ratio.

***(2) Western Washington protection for Type Np and Ns Waters.**

(a) An **equipment limitation zone** is a 30-foot wide zone measured horizontally from the outer edge of the bankfull width of a Type Np or Ns Water where equipment use and other forest practices that are specifically limited by these rules. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities exposes the soil on more than 10% of the surface area of the zone:

- (A) Ground based equipment;
- (B) Skid trails;
- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) Mitigation must be designed to replace the equivalent of lost functions especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(iii) Nothing in this subsection (2) reduces or eliminates the department's authority to prevent actual or potential material damage to public resources under WAC 222-46-030 or 222-46-040 or any related authority to condition forest practices notifications or applications.

(b) Sensitive site and RMZs protection along Type Np Waters. Forest practices must be conducted to protect Type Np RMZs and sensitive sites as detailed below:

(i) A 50-foot, no-harvest buffer, measured horizontally from the outer edge of bankfull width, will be established along each side of the Type Np Water as follows:

Required no-harvest, 50-foot buffers on Type Np Waters.

Length of Type Np Water from the confluence of Type S or F Water	Length of 50' buffer required on Type Np Water (starting at the confluence of the Type Np and connecting water)
Greater than 1000'	500'
Greater than 300' but less than 1000'	Distance of the greater of 300' or 50% of the entire length of the Type Np Water
Less than or equal to 300'	The entire length of Type Np Water

(ii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a headwall seep.

(iii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a side-slope seep.

(iv) No timber harvest is permitted within a 56-foot radius buffer patch centered on the point of intersection of two or more Type Np Waters.

(v) No timber harvest is permitted within a 56-foot radius buffer patch centered on a headwater spring or, in the absence of a headwater spring, on a point at the upper most extent of a Type Np Water as defined in WAC 222-16-030(3) and 222-16-031.

(vi) No timber harvest is permitted within an alluvial fan.

(vii) At least 50% of a Type Np Waters' length must be protected by buffers on both sides of the stream (2-sided buffers). Buffered segments must be a minimum of 100 feet in length. If an operating area is located more than 500 feet upstream from the confluence of a Type S or F Water and the Type Np Water is more than 1,000 feet in length, then buffer the Type Np Water according to the following table. If the percentage is not met by protecting sensitive sites listed in (b)(i) through (vii) of this subsection, then additional buffers are required on the Type Np Water to meet the requirements listed in the table.

Minimum percent of length of Type Np Waters to be buffered when more than 500 feet upstream from the confluence of a Type S or F Water

Total length of a Type Np Water upstream from the confluence of a Type S or F Water	Percent of length of Type Np Water that must be protected with a 50 foot no harvest buffer more than 500 feet upstream from the confluence of a Type S or F Water
1000 feet or less	Refer to table in this subsection (i) above
1001 - 1300 feet	19%
1301 - 1600 feet	27%
1601 - 2000 feet	33%
2001 - 2500 feet	38%
2501 - 3500 feet	42%
3501 - 5000 feet	44%
Greater than 5000 feet	45%

The landowner must select the necessary priority areas for additional 2-sided buffers according to the following priorities:

(A) Low gradient areas;

(B) Perennial water reaches of nonsedimentary rock with gradients greater than 20% in the tailed frog habitat range;

(C) Hyporheic and ground water influence zones; and

(D) Areas downstream from other buffered areas.

Except for the construction and maintenance of road crossings and the creation and use of yarding corridors, no timber harvest will be allowed in the designated priority areas. Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an

existing stream-adjacent parallel road within a designated priority area buffer.

(c) None of the limitations on harvest in or around Type Np Water RMZs or sensitive sites listed in (b) of this subsection will preclude or limit:

(i) The construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050.

(ii) The creation and use of yarding corridors in WAC 222-30-060(1).

To the extent reasonably practical, the operation will both avoid creating yarding corridors or road crossings through Type Np Water RMZ or sensitive sites and associated buffers, and avoid management activities which would result in soil compaction, the loss of protective vegetation or sedimentation in perennially moist areas.

Where yarding corridors or road crossings through Type Np Water RMZs or sensitive sites and their buffers cannot reasonably be avoided, the buffer area must be expanded to protect the sensitive site by an area equivalent to the disturbed area or by providing comparable functions through other management initiated efforts.

Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a Type Np Water RMZs or sensitive site buffer.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-30-023 Riparian management zones for exempt 20-acre parcels.

Note: Compliance with this section does not ensure compliance with the federal Endangered Species Act or the Clean Water Act.

On parcels of 20 contiguous acres or less, landowners with total parcel ownership of less than 80 forested acres shall not be required to leave the riparian buffers described in WAC 222-30-021 and 222-30-022. These landowners are required to follow applicable watershed analysis riparian prescriptions in effect as of January 1, 1999, or if there are no watershed analysis riparian prescriptions in effect these landowners are required to follow the riparian management zone rules below.

***(1) Western Washington RMZs for exempt 20-acre parcels.** Riparian management zones are measured horizontally from the outer edge of bankfull width of a Type S or F Water and extend to the line where vegetation changes from wetland to upland plant community, or the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but must not be less than 29 feet in width nor more than the maximum widths described in (f) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these rules, including those rules

relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Landowners must meet the following shade requirements in effect January 1, 1999, to maintain stream temperature.

*(i) Determination of adequate shade. The temperature prediction method in (c)(ii) and (iii) of this subsection shall be used to determine appropriate shade levels for flowing Type S and F Waters to prevent excessive water temperatures which may have detrimental impact on aquatic resources.

*(ii) Temperature prediction method. In addition to the riparian management zone requirements described in (f) of this subsection, leave trees shall be retained within the maximum riparian management zones on flowing Type S and F Waters as provided by the method described in the board manual which includes the following considerations:

- (A) Minimum shade retention requirements; and
- (B) Regional water temperature characteristics; and
- (C) Elevation; and

(D) Temperature criteria defined for stream classes in chapter 173-201A WAC.

*(iii) Leave tree requirements for shade. The method described in (c)(ii) of this subsection shall be used to establish the minimum shade cover based on site-specific characteristics. When site-specific data indicate that preharvest conditions do not meet the minimums established by the method, no additional shade removal from riparian management zones will be allowed.

(iv) Waivers. The department may waive or modify the shade requirements where:

(A) The applicant agrees to a staggered setting program producing equal or greater shade requirements to maintain stream temperature; or

(B) The applicant provides alternative means of stream temperature control satisfactory to the department; or

(C) The temperature method indicates that additional shade will not affect stream temperature.

(d) For wildlife habitat within the riparian management zone, leave an average of 5 undisturbed and uncut wildlife trees per acre at the ratio of 1 deciduous tree to 1 conifer tree equal in size to the largest existing trees of those species within the zone. Where the 1 to 1 ratio is not possible, then substitute either species present. Forty percent or more of the leave trees shall be live and undamaged on completion of harvest. Wildlife trees shall be left in clumps whenever possible.

(e) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type S or F Waters or a wetland management zone and the harvest unit is a clearcutting of 20 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection.

(f) Within the riparian management zone, trees shall be left for wildlife and fisheries habitat as provided for in the chart below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees

shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations. The number, size, species and ratio of leave trees, deciduous to conifer, is specified by the bed material and average width of

the water type within the harvest unit. Trees left according to (c) of this subsection may be included in the number of required leave trees in this subsection.

**Western Washington Riparian Leave Tree Requirements
For exempt 20-acre parcels**

Water Type/Average Bankfull Width	RMZ Maximum Width	Ratio of Conifer to Deciduous/ Minimum Size Leave Trees	# Trees/1000 ft. each side	
			Gravel/Cobble <10" Diameter	Boulder/Bedrock
S or F Water greater than or equal to 75'	115'	representative of stand	58 trees	29 trees
S Water less than 75' and F Water less than 75' and greater than or equal to 10'	86'	representative of stand	115 trees	60 trees
F Water less than 10' and greater than or equal to 5'	58'	2 to 1((#)) 12" or next largest available ¹	86 trees	29 trees
F Water less than 5'	29'	1 to 1((#)) 6" or next largest available ¹	29 trees	29 trees

¹ "Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the size specified.

Ponds or lakes which are Type S or F Waters shall have the same leave tree requirements as boulder/bedrock streams.

***(2) Eastern Washington riparian management zones for exempt 20-acre parcels.** These zones shall be measured horizontally from the outer edge of bankfull width of Type S or F Waters and extend to the line where vegetation changes from wetland to upland plant community, or to the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than the minimum width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these rules, including those rules relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, trees shall be left for wildlife and fisheries habitat as provided for below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations.

(i) The width of the riparian management zone shall be based on the adjacent harvest type as defined in WAC 222-16-010 "Partial cutting." When the adjacent unit harvest type is:

Partial cutting - The riparian management zone width shall be a minimum of 35 feet to a maximum of 58 feet on each side of the stream.

Other harvest types - The riparian management zone shall average 58 feet in width on each side of the stream with a minimum width of 35 feet and a maximum of 345 feet on each side of the stream.

(ii) Leave tree requirements within the riparian management zones of Type S or F Waters:

(A) Leave all trees 12 inches or less in diameter breast height (dbh); and

(B) Leave all wildlife reserve trees within the riparian management zone where operations in the vicinity do not violate the state safety regulations (chapter 296-54 WAC and chapter 49.17 RCW administered by department of labor and industries, safety division); and

(C) Leave 18 live conifer trees per acre between 12 inches dbh and 20 inches dbh distributed by size, as representative of the stand; and

(D) Leave 4 live conifer trees per acre 20 inches dbh or larger and the 2 largest live deciduous trees per acre 16 inches dbh or larger. Where these deciduous trees do not exist, and where 2 wildlife reserve trees per acre 20 inches or larger do not exist, substitute 2 live conifer trees per acre 20 inches dbh or larger. If live conifer trees of 20 inches dbh or larger do not exist within the riparian management zone, then substitute the 5 largest live conifer trees per acre; and

(E) Leave 3 live deciduous trees per acre between 12 inches and 16 inches dbh where they exist.

(iii) Minimum leave tree requirements per acre for Type S or F Waters. Trees left for (c)(ii) of this subsection shall be included in the minimum counts.

(A) On streams with a boulder/bedrock bed, the minimum leave tree requirements shall be 75 trees per acre 4 inches dbh or larger.

(B) On streams with a gravel/cobble (less than 10 inches diameter) bed, the minimum leave tree requirement shall be 155 trees per acre 4 inches dbh or larger.

(C) On lakes or ponds, the minimum leave tree requirement shall be 86 trees per acre 4 inches dbh or larger.

Note: See the board manual for guidelines for calculating trees per acre and average RMZ widths.

(d) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type S or F Waters or a wetland management zone and the harvest unit is 20 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection. (See WAC 222-16-010 "Partial cutting.")

***(3) Riparian leave tree areas for exempt 20-acre parcels.** The department will require trees to be left along Type Np Waters where such practices are necessary to protect public resources. Where such practices are necessary, leave at least 29 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1000 feet of stream length within 29 feet of the stream. The leave trees may be arranged to accommodate the operation.

(4) For the purposes of this section RMZ means: A specified area alongside Type S and F Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-30-060 Cable yarding. ***(1) Type S and F Waters and sensitive sites.** No timber shall be cable yarded in or across Type S or F Waters except where the logs will not materially damage the bed of waters, banks of sensitive sites, or riparian management zones. If yarding across Type S or F Waters is permitted, then yarding is limited to cable or other aerial logging methods. Any work in or above Type S or F Waters requires a hydraulics project approval (HPA). ~~((Any work in or above a Type Np or Ns Water may require a HPA.))~~ Logs must be fully suspended above the water unless otherwise allowed in the applicable HPA. Yarding corridors must be no wider or more numerous than necessary to accommodate safe and efficient transport of logs. Generally, yarding corridors should be located no closer to each other than 150 feet (measured edge to edge) and should be no wider than 30 feet. Safety is a prime consideration in the location of yarding corridors. Total openings resulting from yarding corridors must not exceed 20% of the stream length associated with the forest practices application. When changing cable locations, care must be taken to move cables around or clear of the riparian vegetation to avoid damage to riparian vegetation.

***(2) Type A or B Wetlands.** No timber shall be cable yarded in or across Type A or B Wetlands without written

approval from the department and may require a hydraulic project approval from the department of fish and wildlife.

***(3) Deadfalls.** Logs which are firmly embedded in the bed or bank of Type S or F Waters shall not be removed or disturbed without hydraulic project approval from the department of fish and wildlife. ~~((Such activities in Type Np or Ns Waters may require a hydraulic project approval.))~~

***(4) Yarding in riparian management zones, sensitive sites, and wetland management zones.** Where timber is yarded from or across a riparian management zone, sensitive site, or wetland management zone reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream or open water areas and to minimize disturbance to understory vegetation, stumps and root systems. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie and away from Type A or B Wetlands or Type S, F or Np Waters until clear of the wetland management zone or riparian management zone.

(5) Direction of yarding.

(a) Uphill yarding is preferred.

(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

(c) When yarding parallel to a Type S or F Water channel below the 100-year flood level or within the riparian management zone, reasonable care shall be taken to minimize soil disturbance and to prevent logs from rolling into the stream, lake, pond, or riparian management zone.

(6) Disturbance avoidance for northern spotted owls.

The operation of heavy equipment within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31 provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(7) Disturbance avoidance for marbled murrelets.

Yarding or operation of heavy equipment shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the daily peak activity periods within the critical nesting season, provided that, this restriction shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-30-070 Ground-based logging systems.

***(1) Typed waters and wetlands.**

(a) Ground-based equipment shall not be used in Type S or F Water, except with approval by the department and with a hydraulic project approval issued by the department of fish and wildlife.

Yarding across Type S or F Waters is limited to cable or other aerial logging methods.

(b) Ground-based transport of logs across Type Np and Ns Waters shall minimize the potential for damage to public resources. ((A hydraulic project approval issued by the department of fish and wildlife may be required for ground-based equipment in Type Np or Ns Waters.))

(i) Skidding logs and driving ground-based equipment through defined channels with flowing water is not allowed.

(ii) Ground-based transport of logs to landings across any Typed Np or Ns Water shall minimize the potential to damage public resources.

(iii) Whenever skidding across Type Np or Ns Waters, the direction of log movement between stream banks shall be designed to minimize sediment delivery to the stream.

(c) In order to maintain wetland water movement and water quality, and to prevent soil compaction, ground-based logging systems shall not be used in Type A or B wetlands.

(d) Where harvest in wetlands is permitted, ground-based logging systems shall be limited to low impact harvest systems. Ground-based logging systems operating in wetlands shall only be allowed during periods of low soil moisture or frozen soil conditions.

(e) Locations of temporary stream crossings to Np Waters shall be shown on the base map of the forest practices application. Whenever skidding in or across Type Np or Ns Waters, the direction of log movement between stream banks shall be designed to minimize sediment delivery to the stream. BMPs for stream crossings can be found in the board manual section 3.

***(2) Riparian management zone.**

(a) Logging will be permitted within the riparian management zone subject to riparian management zone protection in chapter 222-30 WAC. However, any use of ground-based yarding machines within the zone must be as described in an approved forest practices application or otherwise approved in writing by the department.

(b) When transporting logs in or through the riparian management zone with ground-based equipment, the number of routes through the zone shall be minimized.

(c) Logs shall be transported so as to minimize damage to leave trees and vegetation in the riparian management zone, to the extent practical and consistent with good safety practices.

***(3) Wetlands management zones.**

(a) Logging will be permitted within wetland management zones subject to restrictions in WAC 222-30-020(7).

(b) Where feasible logs shall be skidded with at least one end suspended from the ground so as to minimize soil disturbance and damage to leave trees and vegetation in the wetland management zone.

(c) Ground-based harvesting systems shall not be used within the minimum WMZ width unless described in an approved forest practices application or otherwise approved in writing by the department.

***(4) Deadfalls.** Logs firmly embedded in the bed or bank of Type S or F Waters shall not be removed or disturbed without hydraulic project approval from the department of fish and wildlife. ((Such activities in Type Np or Ns Waters may require a hydraulic project approval.))

***(5) Moisture conditions.**

(a) Ground-based logging systems shall not be used on exposed erodible soils or saturated soils if sediment delivery is likely to disturb a wetland, stream, lake or pond.

(b) When soil moisture is high and unrestricted operation of ground-based equipment would result in unreasonable soil compaction, operations shall be restricted to methods that minimized widespread soil compaction or, operations postponed until site conditions improve such that yarding may proceed without causing unreasonable soil compaction and the long-term impacts to soil productivity and moisture absorption capacity that can result.

(6) Protection of residual timber. Reasonable care shall be taken to minimize damage from skidding to the stems and root systems of residual timber and to young reproduction.

***(7) Skid trail location and construction.**

(a) Skid trails shall be kept to the minimum width.

(b) Reasonable care shall be taken to minimize the amount of sidecast required and shall only be permitted above the 100-year flood level.

(c) Skid trails shall be outsloped where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.

(d) Skid trails running parallel or near parallel to streams shall be located outside the no-harvest zone of all typed waters and at least 30 feet from the outer edge of the bankfull width of the unbuffered portions of Type Np or Ns Water unless approved in writing by the department.

(e) Skid trails shall cross the drainage point of swales at an angle to minimize the potential for delivering sediment to a typed water or where channelization is likely to occur. See board manual section 3.

***(8) Skid trail maintenance.**

(a) Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion.

(b) Skid trails located within 200 feet horizontal distance of any typed water that directly delivers to the stream network shall use water bars, grade breaks, and/or slash to minimize sediment delivery to the stream. Water bars shall be placed at a frequency to minimize gullying and soil erosion. In addition to water barring, skid trails with exposed soil that is erodible and may be reasonably expected to cause damage to a public resource shall be seeded with a noninvasive plant species (preferably a species native to the state) and adapted for rapid revegetation of disturbed soil, or treated with other erosion control measures acceptable to the department.

***(9) Slope restrictions.** Ground-based systems shall not be used on slopes where in the opinion of the department this method of operation would cause actual or potential material damage to a public resource.

(10) Disturbance avoidance for northern spotted owls. The operation of heavy equipment within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31, provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(11) Disturbance avoidance for marbled murrelets.

Operation of heavy equipment shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the daily peak activity periods within the critical nesting season, provided that, this restriction shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

AMENDATORY SECTION (Amending WSR 92-08-025, filed 3/23/92, effective 4/23/92)

WAC 222-30-120 Rate of harvest monitoring. (1)

Purpose. A monitoring program will be established to determine the rate of timber harvest so that this information will be available, in combination with other information, for examining the relationship of the rate of timber harvest to sustainability of the timber industry and protection of public resources.

(2) Monitoring program. The department shall monitor the rate at which forest land is harvested. The geographic base for monitoring will be a water resource inventory area.

(3) Annual report to the board. In addition to the report provided for in WAC ((222-08-035 [222-08-160])) 222-08-160, the department shall report monitoring results to the board, annually, beginning in August 1992, including:

(a) A summary of rate of harvest by water resource inventory area; and

(b) Any other information considered to be significant in understanding the status of the rate of harvest.

Actual reporting periods may be modified as dictated by the availability of satellite imagery.

((4) Review of the rate of harvest monitoring program.

~~(a) No later than March 1, 1996, the board will review and evaluate the effectiveness of the monitoring program.~~

~~(b) The department shall provide, for review by the board, a compilation and summary of the annual reports for calendar years 1991, 1992, 1993, 1994, and 1995.)~~

AMENDATORY SECTION (Amending WSR 94-01-134, filed 12/20/93, effective 1/1/94)

WAC 222-34-030 Reforestation—Plans—Reports—

Inspections. (1) **Reforestation plans.** Reforestation plans must be submitted with the application or notification except where no reforestation is required. The department shall designate difficult regeneration areas utilizing silvicultural information. When a forest practice is proposed for such an area, the department may require additional information regarding harvest systems and post harvest site preparation, as well as regeneration. The department shall approve the reforestation plan for difficult regeneration areas if it determines that such a plan will achieve acceptable stocking according to WAC 222-34-010 and 222-34-020.

(2) **Reforestation reports.** The landowner, forest landowner, or his/her designee shall file a report with the department either at the time of completion of planting or reforestation or at the end of the normal planting season. When artifi-

cial seeding is used the report shall be filed 2 growing seasons after seeding.

(3) The reports in subsection (2) of this section must contain at least the following:

(a) The original forest practices application or notification number.

(b) Species reforested, planted, or seeded.

(c) Age of stock planted or seed source zone.

(d) Description of actual area reforested, planted, or seeded.

(4) Inspection; supplemental planting or reforestation directives.

(a) Within 12 months after a reforestation report is received, the department shall inspect the reforested lands. The department shall issue written notice to the landowner, forest landowner, or his/her designee stating whether supplemental planting or reforestation or further inspection is required within 30 days after the deadline for inspection or the reforestation shall be deemed satisfactory.

(b) If the inspection shows that acceptable stocking levels have not been achieved, the department shall direct the forest landowner to perform supplemental planting in accordance with the planting standards of WAC 222-34-010 (3) and (4)(a)(ii), 222-34-020 (3) and (4)(a)(ii): Provided, That:

(i) In lieu of such supplemental planting, the department and the forest landowner may agree on a supplemental reforestation plan.

(ii) Supplemental planting or reforestation shall not be required where in the opinion of the department planting or reforestation is not feasible due to rocky ground, dry conditions, excessively high water table or other adverse site factors and the department determines that there is little probability of significantly increasing the stocking level.

(iii) Where supplemental planting or reforestation has been required by the department, the landowner, forest landowner, or his/her designee shall file a report of supplemental planting or reforestation upon completion.

(iv) Except where stocking improvement is necessary to protect public resources and is feasible, further supplementary planting shall not be required where acceptable stocking levels have not been achieved after two properly performed supplemental plantings.

(c) Within 12 months after a supplemental planting or reforestation report is received, the department shall inspect the reforested lands.

(d) **Evidence of compliance.** The department shall within 30 days after the deadline for inspection or reinspection and when requested by the forest landowner confirm in writing whether acceptable stocking levels have been achieved, provided field conditions do not prevent the department from properly evaluating the reforestation.

(e) Where a natural regeneration plan has been approved by the department, the department may allow up to 10 years to achieve acceptable stocking levels.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-42-010 Supplemental directives. (1) **Purpose of supplemental directives.** The department may issue

supplemental directives to the forest landowner, timber owner and operator, advising them to take or not take as part of any forest practices operations specified actions the department determines to be preferred courses of action or minor changes in the operation to provide greater assurance that the purposes and policies set forth in RCW 76.09.010 of the act will be met.

(2) **Content of supplemental directives.** Supplemental directives shall indicate the reason for their issuance.

(3) **Form, service.** All supplemental directives shall either be in writing, or be confirmed in writing. The supplemental directive shall be given to the operator and a copy mailed promptly to the forest landowner and to the timber owner if different than the forest landowner.

(4) **Directive constitutes approval.** No other approval of the department shall be necessary to conduct forest practices operations in compliance with the terms of a supplemental directive.

(5) **Informal discussions.** The department shall provide an opportunity for an informal discussion before issuing, withdrawing or modifying a supplemental directive.

AMENDATORY SECTION (Amending WSR 94-01-134, filed 12/20/93, effective 1/1/94)

WAC 222-46-020 Informal conferences. (1) **Opportunity mandatory.** The department shall afford the operator and/or a designated representative reasonable opportunities to discuss proposed enforcement actions at an informal conference prior to taking further enforcement action, unless the department determines that there may be imminent damages to the public resource. Informal conferences may be used at any stage in enforcement proceedings, except that the department may refuse to conduct informal conferences with respect to any matter then pending before the appeals board or a court.

(2) **Reports required.** Department personnel in attendance at informal conferences shall keep written notes of the date and place of the conference, the persons in attendance, the subject matter discussed, and any decisions reached with respect to further enforcement action. Copies of the conference notes shall be forwarded to the landowner and the timber owner.

(3) **Records available.** Copies of written notes shall be sent to each participant in the conference, be kept in the department files until one year after final action on the application involved, and be open to public inspection.

(4) **Local ((government)) governmental entity conditions.** If the proposed enforcement actions involve conditions imposed pursuant to WAC 222-20-040(3), then the local ((government)) governmental entity shall be involved in the informal conference.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-46-030 Notice to comply. If a violation, a deviation, material damage or potential for material damage to a public resource has occurred and the department determines that a stop work order is unnecessary, then the depart-

ment shall issue and serve upon the operator and/or landowner a notice.

(1) The notice shall clearly set forth:

(a) **The specific** nature, extent, and time of failure to comply with the approved application; or identifying the damage or potential damage; and/or

(b) The relevant provisions of the Forest Practices Act or of the forest practices rules relating thereto;

(c) **The right** of the operator, landowner, or timber owner to a hearing before the department; and

(d) **The specific** course of action ordered by the department to be followed by the operator to correct such failure to comply and to prevent, correct and/or compensate for material damage to public resources which resulted from any violation, unauthorized deviation, or willful or negligent disregard for potential damage to a public resource; and/or those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practices activities but has not resulted from any violation, unauthorized deviation, or negligence.

(2) **Local ((government)) governmental entity conditions.** If the notice to comply involves a condition imposed pursuant to WAC 222-20-040(3), then the specific course of action ordered by the department shall include a requirement that the operator obtain approval of the local ((government)) governmental entity of the action to be taken.

(3) **The department** shall mail a copy of the notice to comply to the forest landowner and the timber owner at the addresses shown on the application, showing the date of service upon the operator. The department shall also mail a copy to the local ((government)) governmental entity if a condition imposed pursuant to WAC 222-20-040(3) is involved.

(4) **Such notice to comply shall become a final order** of the department: Provided, That no direct appeal to the appeals board will be allowed from such final order. Such operator shall undertake the course of action so ordered by the department unless, within fifteen days after the date of service of such notice to comply, the operator, forest landowner, or timber owner, shall request the department in writing to schedule a hearing. If so requested, the department shall schedule a hearing on a date not more than twenty days after receiving such request. The local ((government)) governmental entity shall participate in the hearing if a condition imposed pursuant to WAC 222-20-040(3) is involved. Within ten days after such hearing, the department shall issue a final order either withdrawing its notice to comply or clearly setting forth the specific course of action to be followed by such operator. Such operator shall undertake the course of action so ordered by the department unless within thirty days after the date of such final order, the operator, forest landowner, or timber owner appeals such final order to the appeals board. No person shall be under any obligation under this section to prevent, correct, or compensate for any damage to public resources which occurs more than one year after the date of completion of the forest practices operations involved exclusive of reforestation, unless such forest practices were not conducted in accordance with forest practices rules: Provided, That this provision shall not relieve the forest landowner from any obligation to comply with forest practices rules pertaining to providing continuing road main-

tenance. No action to recover damages shall be taken under this section more than two years after the date the damage involved occurs.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-46-040 Stop work orders. (1) The department shall have the authority to serve upon an operator a stop work order which shall be a final order of the department if:

(a) There is any violation of the provisions of the Forest Practices Act or these rules; or

(b) There is a deviation from the approved application; or

(c) Immediate action is necessary to prevent continuation of or to avoid material damage to a public resource.

(2) The stop work order shall set forth:

(a) The specific nature, extent, and time of the violation, deviation, damage, or potential damage;

(b) An order to stop all work connected with the violation, deviation, damage, or potential damage;

(c) The specific course of action needed to correct such violation or deviation or to prevent damage and to correct and/or compensate for damage to public resources which has resulted from any violation, unauthorized deviation, or willful or negligent disregard for potential damage to a public resource. The stop work order shall also set forth those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practices activities but has not resulted from any violation, unauthorized deviation, or negligence. If the stop work order involves a condition imposed pursuant to WAC 222-20-040(3), then the specific course of action ordered by the department shall include a requirement that the operator obtain approval of the local ((government)) governmental entity of the action to be taken.

(d) The stop work order shall also set forth the right of the operator to a hearing before the appeals board.

(3) The department shall immediately file a copy of such order with the appeals board and mail a copy thereof to the timber owner and forest landowner at the addresses shown on the application. The department shall also mail a copy to the local ((government)) governmental entity if a condition imposed pursuant to WAC 222-20-040(3) is involved.

(4) The operator, timber owner, or forest landowner may commence an appeal to the appeals board within fifteen days after service upon the operator. If such appeal is commenced, a hearing shall be held not more than twenty days after copies of the notice of appeal were filed with the appeals board. Such proceeding shall be a contested case within the meaning of chapter 34.05 RCW.

(5) The operator shall comply with the order of the department immediately upon being served, but the appeals board if requested shall have authority to continue or discontinue in whole or in part the order of the department under such conditions as it may impose pending the outcome of the proceeding.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-46-060 Civil penalties. (1) **Amount of penalty.** Every person who violates any provisions of RCW 76.09.010 through 76.09.280 or of the forest practices rules adopted pursuant thereto, or who converts forest land to a use other than commercial timber operation within three years after completion of the forest practice without the consent of the county, city, or town, shall be subject to a penalty in an amount of not more than ten thousand dollars for each such violation. Each and every such violation shall be a separate and distinct violation. In case of a failure to comply with a stop work order, every day's continuance thereafter shall be a separate and distinct violation.

(2) **Penalty assessments** shall consider the following:

(a) Repairability of the adverse effect from the violation;

(b) Whether the violation of the act or rules was intentional;

(c) Cooperation with the department;

(d) Previous violation history;

(e) Severity of the impact or the potential for material damage to public resources; and

(f) The extent to which a penalty to be imposed on a forest landowner for a forest practices violation committed by another should be reduced because the owner was unaware of the violation and did not receive substantial economic benefits from the violation.

(3) **Calculation of penalty.** The department shall evaluate any violation to determine if a civil penalty is warranted. When penalties are to be assessed they shall be calculated using the following process:

(a) Determine the base penalty; see WAC 222-46-065.

(b) The penalty may be adjusted using factors specific to the incident and the site. The following additional factors will be independently considered and added to the base penalty to calculate the civil penalty:

(i) Repairability:

Repairability shall be based on the length of time natural restoration or implementation of a restoration plan will take and whether repair can be achieved. The penalty will be substantially increased when natural restoration will not occur within three years and the damage cannot be effectively corrected. For this factor, up to double the base penalty may be added to the penalty.

(ii) Intention:

In making a determination of intent, the department shall consider, but not be limited to, the following considerations: The foreseeability of the violation; whether precautions were taken to avoid the violation; whether an informal conference or enforcement action was served on the violator prior to the violation. For this factor, up to double the base penalty may be added to the penalty.

(iii) Cooperation:

The department shall consider whether the violator did or did not make any attempt to correct the problem. Timeliness of action(s) and/or ignoring or evading agency contacts or directives shall determine if the penalty shall be increased. For this factor, up to double the base penalty may be added to the penalty.

(iv) Previous violation(s):

The department shall consider whether the violator has previous violations of a forest practices rule or regulation as documented in an enforcement action. The department may consider company organizations and assignment of operational responsibilities when evaluating previous violations. A history of violations with adverse impacts or potential for adverse impacts or that shows a pattern of ignoring the rules or the act, shall result in a substantially larger penalty.

Enforcement actions for the purposes of this section shall include notices to comply, stop work orders, civil penalties, and criminal citations when those enforcement actions are associated with forest practices violations. For this factor, up to quadruple the base penalty may be added to the penalty.

(v) Severity:

The department shall adjust the penalty based on the extent and magnitude of the damage or potential damage to public resources. For this factor, up to quadruple the base penalty may be added to the penalty.

(vi) Landowner involvement:

If in the opinion of the department, the landowner exercised reasonable prudence in the development of timber sale contracts or supervision of the forest practices operations, was unaware of the forest practices violation, and the landowner received no substantial economic benefit from the violation, then the landowner generally would not be assessed a civil penalty.

(c) In accordance with RCW 76.09.170, the penalty may not exceed ten thousand dollars for each and every violation.

(d) The department shall determine whether all or a portion of the penalty should be assessed against the operator, landowner, and/or timber owner. The department should consider the responsible party, the degree of control, the sophistication of the party and whether different parties conducted different violations.

(4) **Other participants.** Every person who through an act of commission or omission procures, aids or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty provided for in this section.

(5) **Government employees.** No penalty shall be imposed under this section upon any governmental official, an employee of any governmental department, agency, or entity, or a member of any board created by the act for any act or omission in his/her duties in the administration of the act or of these rules.

(6) **Written notice.** The penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department describing the violation with reasonable particularity.

(7) **Remission or mitigation.** Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the supervisor of the department or his or her designee for the remission or mitigation of such penalty. Upon receipt of the application, the department may remit or mitigate the penalty upon whatever terms the department in its discretion deems proper: Provided, That the department deems such remission or mitigation to be in the best interests of carrying out the purposes of the act. The department shall

have authority to ascertain the facts regarding all such applications in such reasonable manner and under such rules as they may deem proper. The reviewer may reduce, dismiss or not change the civil penalty.

(8) **Right of appeal.** Any person incurring any penalty hereunder may appeal the same to the forest practices appeals board. Such appeals shall be filed within thirty days of receipt of notice imposing any penalty unless an application for remission or mitigation is made to the department. When such an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the department setting forth the disposition of the application for remission or mitigation. Concurrently with the filing of any appeal to the forest practices appeals board as provided in this section, the appellant shall file a copy of the appeal with the department region from which the penalty was issued and a copy with the office of the attorney general.

(9) **Penalties due.** The penalty imposed under this section shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When such an application for remission or mitigation is made, any penalty incurred under this section shall become due and payable thirty days after receipt of notice setting forth the disposition of such application unless an appeal is filed from such disposition. Whenever an appeal of the penalty incurred is filed, the penalty shall become due and payable only upon completion of all administrative and judicial review proceedings and the issuance of a final order or decision confirming the penalty in whole or in part.

(10) **Enforcement.** If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty, interest, costs, and attorneys' fees. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in the Forest Practices Act. In addition to or as an alternative to seeking enforcement of penalties in superior court, the department may bring an action in district court as provided in Title 3 RCW, to collect penalties, interest, costs, and attorneys' fees.

(11) **Liens.** Penalties imposed under this section for violations associated with a conversion to a use other than commercial timber operation shall be a lien upon the real property of the person assessed the penalty. The department may collect such amounts in the same manner provided in chapter 60.04 RCW for mechanics' liens.

(12) Any person incurring a penalty is also responsible for the payment of all costs and attorneys' fees incurred with the penalty as well as interest accruing on the unpaid penalty amount.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-46-070 Injunctions, civil suits, disapprovals. (1) The department may take any necessary action to enforce any final order or final decision.

(2)(a) The department may disapprove any forest practices application or notification submitted by any person who has failed to comply with a final order or decision as set forth in RCW 76.09.080, 76.09.090, or 76.09.110, or has failed to pay any civil penalties as provided in RCW 76.09.170. This disapproval will last for up to one year from the issuance of a notice of intent to disapprove notifications and applications under this section, or until the violator pays all outstanding civil penalties and complies with all validly issued and outstanding notices to comply and stop work orders, whichever is longer.

(b) For purposes of this subsection, "validly issued" means a stop work order or notice to comply for which no appeal or request for hearing has been filed; or if appealed, it has not been declared invalid by a final order or decision and all appeals are exhausted.

(c) The department shall provide written notice of its intent to disapprove future applications or notifications, and shall forward copies of such notice to any affected landowner, timber owner or operator. The disapproval period shall run from thirty days following the date of actual notice or from the date all appeals, if any, have been exhausted.

(d) Any person provided notice of intent to disapprove an application or notification may seek review from the forest practices appeals board within thirty days of the date of notice.

(e) While the notice of intent to disapprove is in effect, the violator(s) may not serve as a person in charge of, be employed by, manage, or otherwise participate to any degree in forest practices.

(3) A county may bring injunctive, declaratory, or other actions for enforcement for forest practices activities within its jurisdiction in the superior court as provided by law against the department, the forest landowner, timber owner or operator to enforce the forest practices regulations or any final order of the department or the appeals board. No civil or criminal penalties shall be imposed for past actions or omissions if such actions or omissions were conducted pursuant to an approval or directive of the department. A county may not commence injunctions, declaratory actions, or other actions for enforcement under this subsection unless the department fails to take appropriate actions after ten days' written notice to the department by the county of a violation of the forest practices rules or final orders of the department or the appeals board.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-50-020 Other agency requirements. (1) Many other laws and rules apply to the conduct of forest practices. Other agencies administer some of these other regulatory programs. Permits may be required by such agencies prior to the conduct of certain forest practices. The department will maintain a list for distribution of state, regional and

local regulatory programs that apply to forest practices operations. Affected parties are urged to consult with the specified agencies and independent experts with respect to the regulatory requirements shown on the list.

(2) **Hydraulics project approval law**, chapter 77.55 RCW. A hydraulics project approval must be obtained from the department of fish and wildlife prior to constructing any form of hydraulic project or other work that will use, divert, obstruct, or change the natural flow or bed of any river or stream or that will utilize any of the waters of the state or materials from the stream beds. See chapter 77.55 RCW and WAC 232-14-010.

(3) **Compliance with the Shoreline Management Act**, chapter 90.58 RCW, is required. The Shoreline Management Act is implemented by the department of ecology and the applicable local governmental entity. A substantial development permit must be obtained prior to conducting forest practices which are "substantial developments" within the "shoreline" area as those terms are defined by the Shoreline Management Act.

(4) Nothing in these rules is intended to interfere with any authority of the department of fish and wildlife to protect wildlife under any other statutes or regulations, or under any agreements with landowners.

(5) Federal Endangered Species Act, 16 U.S.C. 1531 et seq., and other federal laws. The federal Endangered Species Act and other federal laws may impose certain obligations on persons conducting forest practices. Compliance with the Forest Practices Act or these rules does not ensure compliance with the Endangered Species Act or other federal laws.

WSR 08-24-019

PERMANENT RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2008-09—Filed November 24, 2008, 8:33 a.m., effective December 25, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These new rules establish standards for long-term care insurance, implementing recently enacted chapter 48.83 RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 284-17-258, 284-17-260, 284-17-262, 284-17-264, 284-54-010, and 284-54-015.

Statutory Authority for Adoption: RCW 48.02.060, 48.83.070, 48.83.110, 48.83.120, 48.83.130(1), and 48.83.-140 (4)(a).

Adopted under notice filed as WSR 08-17-103 on August 20, 2008.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made based on public comment:

- Deleted WAC 284-83-160.
- WAC 284-54-015 was amended to include "delivered under policies."

A final cost-benefit analysis is available by contacting Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258,

phone (360) 725-7041, fax (360) 586-3109, e-mail kacys@oic.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 49, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 49, Amended 5, Repealed 0.

Date Adopted: November 24, 2008.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2004-04, filed 3/17/05, effective 4/17/05)

WAC 284-17-258 ((What is the)) Long-term care ((LTC-special)) education requirement((?)). (1)(a) Resident and nonresident agents engaged in the transaction of ((LTC)) long-term care insurance or long-term care partnership ((LTCP))) insurance are required to take an approved six-hour course on ((LTC)) long-term care or ((LTCP)) long-term care partnership before soliciting, selling, or otherwise transacting these types of insurance business as to such products with consumers. The four-hour refresher ((LTC)) long-term care special education course must be taken every two-year renewal period subsequent to the initial six-hour course. The ((OIC)) commissioner prescribes the content of the course. Each course must be approved by the ((OIC)) commissioner in advance.

(b) This requirement does not apply to licensees receiving override commissions on ((LTC)) long-term care transactions if the licensee has had no contact with the consumer.

(2) This section is effective until December 31, 2008. Long-term care education requirements effective on and after January 1, 2009, are set forth in RCW 48.83.130 and WAC 284-17-264.

AMENDATORY SECTION (Amending Matter No. R 2004-04, filed 3/17/05, effective 4/17/05)

WAC 284-17-260 ((Who is)) Resident and nonresident agents required to complete the ((LTC-special)) long-term care education requirement((?)). (1) Until December 31, 2008, both resident and nonresident agents who transact ((LTC)) long-term care business must complete the six-hour ((LTC)) long-term care special education course and must complete the four-hour refresher course per renewal period.

(2) The requirements for resident and nonresident long-term care insurance education beginning January 1, 2009, are set forth in RCW 48.83.130 and WAC 284-17-264.

AMENDATORY SECTION (Amending Matter No. R 2004-04, filed 3/17/05, effective 4/17/05)

WAC 284-17-262 ((Who must certify)) Certification by insurer of completion of ((the LTC special)) long-term care insurance education ((and when is the certification due?)) due date. Beginning January 1, 2009:

(1) Each insurer that has ((approved LTC)) long-term care policies approved for sale in this state must certify ((yearly)) annually that all ((agents)) of its insurance producers engaged in the sale, solicitation or negotiation of long-term care insurance coverage in this state have:

(a) Completed the ((LTC special education)) eight-hour one-time long-term care education and training course required by RCW 48.83.130 (2)(a)(i) prior to selling, soliciting, or negotiating the ((LTC product)) company's long-term care insurance coverage in this state; or

(b) Completed the required long-term care continuing education requirement imposed by RCW 48.83.130 (2)(b).

((This)) (2) The certification ((is to)) must be ((delivered)) provided to the ((OIC yearly)) commissioner by the insurer annually on or before March 31st. The certification must be sent to the licensing and education program manager in the commissioner's office. A form for this purpose is available on the commissioner's web site: www.insurance.wa.gov.

AMENDATORY SECTION (Amending Matter No. R 2004-04, filed 3/17/05, effective 4/17/05)

WAC 284-17-264 ((May I use the LTC special education course for continuing education?)) Reciprocity—Application of long-term care credits to continuing education requirement. ((If you are a resident agent and you take an LTC special education course that has also been approved for continuing education, you may use the hours toward your required twenty-four hours.)) Beginning January 1, 2009, all insurance producers are subject to the eight-hour one-time long-term care training and the four-hour long-term care education requirements of RCW 48.83.130.

(1) Successful completion of approved training in this or any other state by a resident insurance producer, may be used to satisfy the long-term care training requirements of this state.

(2) Resident insurance producers that complete long-term care insurance courses approved in this state to fulfill the required long-term care training may count those course credits toward fulfillment of their Washington continuing education requirement.

(3) If an insurance producer wishes to apply course credits for the required long-term care training offered in another state and the course is not otherwise approved for continuing education credit in this state, the training may qualify for individual course credit subject to WAC 284-17-244.

AMENDATORY SECTION (Amending Order R 87-7, filed 7/9/87)

WAC 284-54-010 Purpose and authority. The purpose of this chapter, is to effectuate chapter 48.84 RCW, the Long-Term Care Insurance Act, by establishing minimum standards and disclosure requirements to be met by insurers, health care service contractors, health maintenance organizations, and fraternal benefit societies with respect to long-term care insurance and long-term care benefit policies and contracts issued for delivery in this state before January 1, 2009.

AMENDATORY SECTION (Amending Order R 87-7, filed 7/9/87)

WAC 284-54-015 Applicability and scope. (1) Except as otherwise specifically provided, this chapter shall apply to every policy, contract, or certificate, and riders pertaining thereto, of an insurer, fraternal benefit society, health care service contractor, or health maintenance organization, if such contract is primarily advertised, marketed, or designed to provide long-term care services over a prolonged period of time, which services may range from direct skilled medical care performed by trained medical professionals as prescribed by a physician or qualified case manager in consultation with the patient's attending physician to rehabilitative services and assistance with the basic necessary functions of daily living for people who have lost some or complete capacity to function on their own. Such contract is "long-term care insurance" or a "long-term care contract," and is subject to this chapter.

(2) Pursuant to RCW 48.84.020, this chapter shall not apply to Medicare supplement insurance; nor shall it apply to a contract between a continuing care retirement community and its residents.

(3) Long-term care contracts not meeting the requirements of this chapter, may not be issued or delivered in this state after December 31, 1987.

(4) This chapter is applicable only to long-term care policies, contracts, or certificates issued prior to January 1, 2009. Long-term care policies, contracts, or certificates delivered under policies issued on or after January 1, 2009, are governed by chapters 48.83 RCW and 284-83 WAC.

Chapter 284-83 WAC

LONG-TERM CARE INSURANCE RULES

NEW SECTION

WAC 284-83-005 Applicability and scope. (1) Except as otherwise specifically provided, this chapter applies to all long-term care insurance policies delivered or issued for delivery in this state on or after January 1, 2009, including qualified long-term care policies and life insurance policies that accelerate benefits for long-term care. This chapter applies to insurance companies, fraternal benefit societies, health care service contractors, health maintenance organizations and all similar entities (collectively called "issuers" in this chapter).

(2) Some sections of this chapter apply only to qualified long-term care insurance policies, as provided for by the Health Insurance Portability and Accountability Act of 1996 and by Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

(3) This chapter applies to policies delivered or issued for delivery in this state having indemnity benefits that are triggered by activities of daily living and sold as disability income insurance, if:

(a) The benefits of the disability income policy are dependent upon or vary in amount based on the receipt of long-term care services;

(b) The disability income policy is advertised, marketed or offered as insurance for long-term care services; or

(c) Benefits under the policy commence after the policyholder has reached Social Security's normal retirement age, unless the benefits are designed to replace lost income or pay for specific expenses other than long-term care services.

NEW SECTION

WAC 284-83-010 Definitions and standards. For the purpose of this chapter, the following definitions and standards apply, unless the context clearly requires otherwise.

(1) "Certificate" has the meaning set forth in RCW 48.83.020(2).

(2) "Exceptional increase" means only those increases filed by the issuer as exceptional for which the commissioner determines the need for the premium rate increase is justified due to changes in laws or regulations applicable to long-term care coverage in this state; or due to increased and unexpected utilization that affects the majority of issuers of similar products. Except as provided in WAC 284-83-090, exceptional increases are subject to the same requirements as other premium rate schedule increases. The commissioner may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase. The commissioner, in determining that the necessary basis for an exceptional increase exists, must also determine any potential offsets to higher claims costs.

(3) "Incidental," as used in WAC 284-83-090, means a value of the long-term care benefits provided that is less than ten percent of the total value of the benefits provided over the life of the policy. These values must be measured as of the date of issue. In simple cases where the base policy and the long-term care benefits have separately identifiable premiums, the premiums can be directly compared. In other cases, annual cost of insurance charges might be available for comparison. Some cases may involve comparison of present value of benefits.

(4) "Group long-term care insurance" has the meaning set forth in RCW 48.83.020(6).

(5) "Guaranteed renewable" means that renewal of a long-term care insurance policy cannot be declined by the issuer for any reason except nonpayment of premiums, but the issuer can revise rates on a class basis.

(6) "Insured" means any beneficiary or owner of a long-term care policy regardless of the type of issuer.

(7) "Issuer" has the meaning set forth in RCW 48.83.020
 (4).

(8) "Noncancelable" means that renewal of a long-term care insurance policy cannot be declined and rates cannot be revised by the issuer.

(9) "Policy" has the meaning set forth in RCW 48.83.-020(7), unless the context clearly indicates otherwise, and includes certificates issued under a group policy.

(10) "Qualified actuary" means a member in good standing of the American Academy of Actuaries.

(11) "Qualified long-term care insurance" has the meaning set forth in RCW 48.83.020(8).

(12) "Similar policy forms" means all of the long-term care insurance policies and certificates issued by the issuer in the same long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition in RCW 48.83.020 (6)(a) are not considered similar to certificates or policies otherwise issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows: Institutional long-term care benefits only, noninstitutional long-term care benefits only, or comprehensive long-term care benefits.

NEW SECTION

WAC 284-83-015 Standards for policy definitions and terms. A long-term care insurance policy or certificate delivered or issued for delivery in this state must not use the following terms unless the terms are defined in the policy or certificate and the definitions satisfy the following standards. This section specifies minimum standards for several terms commonly found in long-term care insurance policies, while allowing some flexibility in the definitions themselves.

(1) "Activities of daily living" means at least bathing, continence, dressing, eating, toileting and transferring.

(2) "Acute condition" means that the individual is medically unstable. An individual with an acute condition requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain his or her health status.

(3) "Adult day care" or "adult day health care" means a program of social or health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home.

(4) "Bathing" means washing oneself by sponge bath or in either a tub or shower, including the task of getting into or out of the tub or shower.

(5) "Cognitive impairment" means a deficiency in a person's short or long-term memory; orientation as to person, place and time; deductive or abstract reasoning; or judgment as it relates to safety awareness.

(6) "Continence" means the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).

(7) "Dressing" means putting on and taking off all items of clothing and any necessary braces, fasteners or artificial limbs.

(8) "Eating" means feeding oneself by getting food into the body from a receptacle (such as a plate, cup or table) or by a feeding tube or intravenously.

(9) "Hands-on assistance" means physical assistance (minimal, moderate or maximal) without which the individual would not be able to perform the activity of daily living.

(10) "Home health care services" means medical and nonmedical services, provided to ill, disabled or infirm persons in their residences. Such services may include home-maker services, assistance with activities of daily living and respite care services.

(11) "Managed-care plan" or "plan of care" means a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks.

(12) "Medicare" means "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

(13) "Personal care" means the provision of hands-on services to assist an individual with activities of daily living.

(14) "Skilled nursing care," "personal care," "home care," "specialized care," "assisted living care" and other services must be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

(15) "Toileting" means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.

(16) "Transferring" means moving into or out of a bed, chair or wheelchair.

(17) "Skilled nursing facility," "nursing facility," "extended care facility," "convalescent nursing home," "personal care facility," "specialized care providers," "assisted living facility," "home care agency" and terms used to identify other providers of services must be defined in relation to the services and facilities required to be available and the licensure, certification, registration or degree status of those providing or supervising the services. When the definition requires that the provider be appropriately licensed, certified or registered, it must also state what requirements a provider must meet in lieu of licensure, certification or registration if the state in which the service is to be furnished does not require a provider of these services to be licensed, certified or registered, or if the state licenses, certifies or registers the provider of services under another name.

NEW SECTION

WAC 284-83-020 Standards for policy provisions. The following standards for policy provisions apply to all long-term care insurance policies delivered or issued for delivery in this state.

(1) Renewability. The terms "guaranteed renewable" and "noncancelable" must not be used in any individual long-term care insurance policy or certificate without further explanatory language in accordance with the disclosure requirements of WAC 284-83-035.

(a) A policy or certificate issued to an individual must not contain renewal provisions other than "guaranteed renewable" or "noncancelable."

(b) The term "guaranteed renewable" may be used only if the insured has the right to continue the long-term care insurance in force by the timely payment of premiums, if the issuer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and the issuer cannot decline to renew, except that rates may be revised by the issuer on a class basis.

(c) The term "noncancelable" may be used only if the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the issuer has no right to unilaterally make any change in any provision of the insurance and has no right to unilaterally make any change in the premium rate.

(d) The term "level premium" may be used only if the issuer does not have the right to change the premium.

(e) In addition to the other requirements of this subsection, a qualified long-term care insurance policy or certificate must be guaranteed renewable, within the meaning of Section 7702B (b)(1)(C) of the Internal Revenue Code of 1986, as amended.

(2) Limitations and exclusions. A long-term care policy or certificate shall not be delivered or issued for delivery in this state as long-term care insurance if it limits or excludes coverage by type of illness, treatment, medical condition or accident, except for the following permitted exclusions:

(a) Preexisting conditions or diseases;

(b) Alcoholism and drug addiction;

(c) Illness, treatment or medical condition arising out of war or act of:

(i) War (whether declared or undeclared);

(ii) Participation in a felony, riot or insurrection;

(iii) Service in the armed forces or units auxiliary thereto;

(iv) Suicide (while sane or insane), attempted suicide, or intentionally self-inflicted injury; or

(v) Aviation (this exclusion applies only to nonfare-paying passengers);

(d) Treatment provided in a government facility (unless otherwise required by law), services for which benefits are available under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person's immediate family, and services for which no charge is normally made in the absence of insurance;

(e) Expenses for services or items available or paid under another long-term care insurance or health insurance policy;

(f) In the case of a qualified long-term care insurance policy only, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social

Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount;

(g) Issuers may not prohibit, exclude or limit services based on type of provider or limit a coverage if services are provided in a state other than the state where the policy was originally issued, except:

(i) When the state other than the state of policy issue does not have the provider licensing, certification, or registration required in the policy, unless the provider satisfies the policy requirements outlined for providers in lieu of licensure certificate or registration; or

(ii) When the state other than the state of policy issue licenses, certifies or registers the provider under another name.

(iii) Issuers may exclude or limit payment for services provided outside the United States or permit or limit benefit levels to reflect legitimate variations or differences in provider rates, but issuers must cover services that would be covered in the state of issue irrespective of any licensing, registration or certification requirements for providers in the other state. In other words, if the claim would be approved but for the licensing issue, the claim must be approved for payment.

(3) Extension of benefits. Termination of long-term care insurance must be without prejudice to any benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. The extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.

(4) Continuation or conversion. Group long-term care insurance issued in this state on or after January 1, 2009, must provide covered individuals with a basis for continuation or conversion of coverage.

(a) For the purposes of this section, "a basis for continuation of coverage" means a policy provision that maintains coverage under the existing group policy when the coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due.

(i) Group policies that restrict provision of benefits and services to, or contain incentives to use certain providers or facilities, may provide continuation benefits that are substantially equivalent to the benefits of the existing group policy.

(ii) The commissioner will make a determination as to the substantial equivalency of benefits, and in doing so, will take into consideration the differences between managed care and nonmanaged care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity.

(b) For the purposes of this section, "a basis for conversion of coverage" means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced), for at least six months immediately prior to termination, is entitled to the issuance of a converted policy by the

issuer under whose group policy he or she is covered, without evidence of insurability.

(c) For the purposes of this section, "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the commissioner to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. If the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers or facilities the commissioner, in making a determination as to the substantial equivalency of benefits, will take into consideration the differences between managed care and nonmanaged care plans, including, but not limited to, provider system arrangements, service availability, benefit levels, and administrative complexity.

(d) Written application for the converted policy must be made and the first premium due, if any, must be paid as directed by the issuer not later than thirty-one days after termination of coverage under the group policy. The converted policy must be issued effective on the day following the termination of coverage under the group policy, and must be renewable annually.

(e) Except where the group policy from which conversion is made replaces previous group coverage, the premium for the converted policy must be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. If the group policy from which conversion is made replaces previous group coverage, the premium for the converted policy must be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.

(f) Continuation of coverage or issuance of a converted policy is mandatory, except where:

(i) Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or

(ii) The terminating coverage is replaced not later than thirty-one days after termination by group coverage effective on the day following the termination of coverage and the replacement coverage provides benefits identical to or benefits determined by the commissioner to be substantially equivalent to or in excess of those provided by the terminating coverage; and the premium is calculated in a manner consistent with the requirements of (e) of this subsection.

(g) Notwithstanding any other provision of this section, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy that provides benefits on the basis of incurred expenses, may contain a provision that results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than one hundred percent of incurred expenses. The provision may only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.

(h) The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is

made, do not exceed those that would have been payable had the individual's coverage under the group policy remained in full force and effect.

(i) Notwithstanding any other provision of this section, the insured individual whose eligibility for group long-term care coverage is based upon his or her relationship to another person must be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.

(5) Discontinuance and replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding issuer must offer coverage to all insured persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the issuer and premiums charged to persons under the new group policy:

(a) Must not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced; and

(b) Must not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services.

(6)(a) The premium charged to the insured must not increase due to either the increasing age of the insured at ages beyond sixty-five or the duration the insured has been covered under the policy.

(b) The purchase of additional coverage shall not be considered a premium rate increase; but for purposes of the calculation required under WAC 284-83-090, the portion of the premium attributable to the additional coverage must be added to and considered part of the initial annual premium.

(c) A reduction in benefits shall not be considered a premium change; but for purposes of the calculation required under WAC 284-83-090, the initial annual premium must be based on the reduced benefits.

(7) Electronic enrollment for group policies.

(a) In the case of a group, as defined in RCW 48.83.020 (6)(a), any requirement that a signature of the insured be obtained by an insurance producer or issuer will be deemed satisfied only if:

(i) The consent is obtained by telephonic or electronic enrollment by the group policyholder or issuer and verification of enrollment information is provided to the insured;

(ii) The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention and prompt retrieval of records; and

(iii) The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure that the confidentiality of individually identifiable information is maintained.

(b) Upon request of the commissioner, the issuer must make available records that demonstrate the issuer's ability to confirm enrollment and coverage amounts.

(8) Each long-term care policy delivered or issued for delivery to any person in this state must clearly indicate on its first page that it is a "long-term care insurance" policy.

NEW SECTION

WAC 284-83-025 Unintentional lapse. As a protection against unintentional lapse, each issuer offering long-term care insurance must comply with all of the following:

(1)(a) Notice before lapse or termination. No individual long-term care policy or certificate may be issued until the issuer has received from the applicant either a written designation of at least one person in addition to the applicant who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice.

(i) The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured.

(ii) Designation does not constitute acceptance of any liability on the third party for services provided to the insured.

(iii) The form used for the written designation must provide space clearly designated for listing at least one person.

(iv) The designation must include each person's full name and home address.

(v) If the applicant elects not to designate an additional person, the waiver must state: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice."

(vi) No less frequently than once every two years the issuer must notify the insured of the right to change this written designation.

(b) When the policyholder or certificateholder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in (a) of this subsection need not be met until sixty days after the policyholder or certificateholder is no longer on the payment plan. The application or enrollment form for such policies or certificates must clearly show the payment plan selected by the applicant.

(c) Lapse or termination for nonpayment of premium. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the issuer, at least thirty days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to (a) of this subsection, at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice must be given by first class United States mail, postage prepaid, and notice may not be given until thirty days after a premium is due and unpaid. Notice is deemed to have been given as of five days after the date of mailing.

(2) Reinstatement. In addition to the requirements in subsection (1) of this section, a long-term care insurance policy or certificate must include a provision that provides for reinstatement of coverage in the event of lapse if the issuer is provided proof that the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired.

(a) Reinstatement must be available to the insured if requested within five months after lapse and may allow for the collection of past due premium, where appropriate.

(b) The standard of proof of cognitive impairment or loss of functional capacity must not be more stringent than the benefit eligibility criteria for cognitive impairment or the loss of functional capacity contained in the policy or certificate.

NEW SECTION

WAC 284-83-030 Required disclosure provisions. (1) Renewability. Long-term care insurance policies must contain a renewability provision.

(a) The renewability provision must be appropriately captioned, must appear on the first page of the policy, and must clearly state that the coverage is guaranteed renewable or noncancelable. This provision does not apply to policies that do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder, such as long-term care policies which are part of or combined with life insurance policies because life insurance policies generally do not contain renewability provisions.

(b) A long-term care insurance policy or certificate, other than one where the issuer does not have the right to change the premium, must include a statement that premium rates may change.

(2) Riders and endorsements.

(a) Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after the date of issue, or at reinstatement or renewal, that reduce or eliminate benefits or coverage in the policy must require signed acceptance by the individual insured.

(b) After the date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in a writing signed by the insured, except when the increase in benefits or coverage is required by law.

(c) If a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge must be set forth in the policy, rider or endorsement.

(3) Payment of benefits. A long-term care insurance policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import, must include a definition and explanation of the terms in its accompanying outline of coverage, as set forth in WAC 284-83-145.

(4) Limitations. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations must appear as a separate paragraph of the policy or certificate and must be labeled as "pre-existing condition limitations."

(5) Other limitations or conditions on eligibility for benefits. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited under chapter 48.83 RCW, must set forth a description of the limitations or conditions, including any

required number of days of confinement, in a separate paragraph of the policy or certificate and must label that paragraph "limitations or conditions on eligibility for benefits."

(6) Disclosure of tax consequences. At the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted, a life insurance policy or certificate that provides an accelerated benefit for long-term care must disclose that receipt of the accelerated benefits may be taxable and that assistance should be sought from a personal tax advisor. The disclosure statement must be prominently displayed on the first page of the policy, certificate or rider and any other related documents. This subsection does not apply to qualified long-term care insurance policies.

(7) Benefit triggers. Activities of daily living and cognitive impairment shall be used to measure the insured's need for long-term care and must be described in the policy or certificate in a separate paragraph labeled "eligibility for the payment of benefits." Any additional benefit triggers must be explained in the same section.

(a) If benefit triggers differ for different benefits, a clear explanation of the benefit trigger must accompany each benefit description.

(b) If an attending physician or other specified person is required to certify a certain level of functional dependency in order for the insured to be eligible for benefits, this must be specified.

(8) A qualified long-term care insurance policy must include a disclosure statement in the policy and in the outline of coverage, as set forth in WAC 284-83-145, that the policy is intended to be a qualified long-term care insurance policy under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

(9) A nonqualified long-term care insurance policy must include a disclosure statement in the policy and in the outline of coverage, as set forth in WAC 284-83-145, that the policy is not intended to be a qualified long-term care insurance policy.

NEW SECTION

WAC 284-83-035 Required disclosure of rating practices to consumers. (1)(a) Except as provided in (b) of this subsection, this section applies to any long-term care policy or certificate issued for delivery in this state on or after January 1, 2009.

(b) Certificates issued on or after January 1, 2009, under a group long-term care insurance policy as defined in RCW 48.83.020 (6)(a), that were in force prior to January 1, 2009, the provisions of this section apply on the policy anniversary first following January 1, 2009.

(2) Except for policies for which no applicable premium rate or rate schedule increases can be made, the issuer must provide all of the information listed in this subsection to the applicant at the time of application or enrollment. If the method of application does not allow for delivery at that time, the issuer must provide all of the information listed in this section to the applicant no later than at the time of delivery of the policy or certificate. For example, a method of delivery

that does not allow for all listed information to be provided at time of application or enrollment is an application by mail.

(a) A statement that the policy may be subject to rate increases in the future;

(b) An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision;

(c) The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase;

(d) A general explanation for applying premium rate or rate schedule including:

(i) A description of when premium rate or rate schedule adjustments will be effective (for example, next anniversary date or next billing date); and

(ii) The right to a revised premium rate or rate schedule as provided for in (c) of this subsection if the premium rate or rate schedule is changed;

(e)(i) Information regarding each premium rate increase on this policy form or similar policy forms over the past ten years for this state or any other state that, at a minimum, identifies:

(A) The policy forms for which premium rates have been increased;

(B) The calendar years when the form was available for purchase; and

(C) The amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase, and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics.

(ii) The issuer, in a fair manner, may provide additional explanatory information related to the rate increases.

(iii) The issuer may exclude from the disclosure, premium rate increases that only apply to blocks of business acquired from other nonaffiliated issuers or the long-term care policies acquired from other nonaffiliated issuers when those increases occurred prior to the acquisition.

(iv) If the acquiring issuer files for a rate increase on a long-term care policy form acquired from a nonaffiliated issuer or a block of policy forms acquired from a nonaffiliated issuer on or before the later of January 1, 2009, or the end of a twenty-four-month period following the acquisition of the block or policies, the acquiring issuer may exclude that rate increase from the disclosure; however, the nonaffiliated selling issuer must include the disclosure of that rate increase in accordance with (e)(i) of this subsection.

(v) If the acquiring issuer in (e)(iv) of this subsection files for a subsequent rate increase at any time (including during the twenty-four-month period following the acquisition of the block or policies) on the same policy form acquired from a nonaffiliated issuer or block of policy forms acquired from a nonaffiliated issuer referenced in (e)(iv) of this subsection, the acquiring issuer must make all disclosures required by (e) of this subsection, including disclosure of the earlier rate increase.

(vi) If the policy is for employer-group coverage, the disclosures in this subsection need to be made only to the employer if the employer is paying the entire premium and no

contributions or coverage elections are made by individual employees.

(3) The applicant must sign an acknowledgement at the time of application, unless the method of application does not allow for signature at that time, that the issuer made the disclosure required under subsection (2)(a) and (e) of this section. If due to the method of application the applicant cannot sign an acknowledgement at the time of application, the applicant must sign no later than at the time of delivery of the policy or certificate.

(4) The forms provided in WAC 284-83-170 and 284-83-190 must be used by the issuer to comply with the requirements of subsections (2) and (3) of this section.

(5) The issuer must provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, as applicable, at least forty-five days prior to the implementation of any premium rate schedule increase by the issuer. The notice must include the information required by subsection (2) of this section when the rate increase is implemented.

NEW SECTION

WAC 284-83-040 Initial rate filing requirements.

The issuer must provide the following information to the commissioner no fewer than thirty days prior to making a long-term care insurance form available for sale in this state:

(1) A copy of each disclosure document required in WAC 284-83-035; and

(2) An actuarial certification consisting of at least the following:

(a) A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;

(b) A statement that the policy design and coverage provided have been reviewed and taken into consideration;

(c) A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration;

(d) A complete description of the basis for policy reserves that are anticipated to be held under the form, including:

(i) Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held;

(ii) A statement that the assumptions used for reserves contain reasonable margins for adverse experience;

(iii) A statement that the net valuation premium for renewal years does not increase (except for attained-age rating, where permitted); and

(iv) A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or, if such a statement cannot be made, a complete description of the situations where this does not occur;

(A) An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship;

(B) If the gross premiums for certain age groups appear to be inconsistent with this requirement, the commissioner may request a demonstration based on a standard age distribution; and

(e)(i) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the issuer except for reasonable differences attributable to benefits; or

(ii) A comparison of the premium schedules for similar policy forms that are currently available from the issuer with an explanation of the differences.

(3)(a) The commissioner may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration must include:

(i) Premium and claim experience on similar policy forms, adjusted for any premium or benefit differences;

(ii) Relevant and credible data from other studies; or

(iii) Both (a)(i) and (ii) of this subsection.

(b) In the event the commissioner asks for additional information, the period in subsection (2) of this section does not include the period during which the issuer is preparing the requested information.

NEW SECTION

WAC 284-83-045 Prohibition against post-claims underwriting. (1) All applications for long-term care insurance policies or certificates except those that are guaranteed issue must contain clear and unambiguous questions designed to ascertain the health condition of the applicant.

(2)(a) If an application for long-term care insurance includes a question that asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the prescribed medications.

(b) If the medications listed in the application were known by the issuer, or should have been known by the issuer at the time of application, to be directly related to a medical condition for which coverage would otherwise be denied, then the policy or certificate cannot be rescinded based on that condition.

(3) Except for policies or certificates which are guaranteed issue:

(a) The following language must be set out conspicuously and in close conjunction with the applicant's signature block on the application for a long-term care insurance policy or certificate:

"Caution: If your answers on this application are incorrect or untrue, [company] has the right to deny benefits or rescind your policy."

(b) The following language, or language substantially similar to the following, must be set out conspicuously on every long-term care insurance policy or certificate at the time of delivery:

"Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or

untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [Insert address]"

(c) Prior to issuance of a long-term care policy or certificate to an applicant age eighty or older, the issuer must obtain one of the following:

- (i) A report of a physical examination;
- (ii) An assessment of functional capacity;
- (iii) An attending physician's statement; or
- (iv) Copies of the applicant's medical records.

(4) A copy of the completed application or enrollment form (whichever is applicable) must be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application.

(5) Every issuer or other entity selling or issuing long-term care insurance benefits must maintain a record of all policy or certificate rescissions, both state and countrywide, except those that the insured voluntarily requested, and must annually furnish this information to the commissioner. The format is prescribed by the National Association Of Insurance Commissioners, and is set forth in WAC 284-83-165.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 284-83-050 Minimum standards for home health and community care benefits in long-term care insurance policies. (1) If a long-term care insurance policy or certificate provides benefits for home health care or community care services, it must not limit or exclude benefits:

(a) By requiring that the insured or claimant would need care in a nursing facility if home health care services were not provided;

(b) By requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services, or both, in a home, community, or institutional setting before home health care services are covered;

(c) By limiting eligible services to services provided by registered nurses or licensed practical nurses;

(d) By requiring that a nurse or therapist provide services covered under the policy that can be provided by a home health aide or other licensed or certified home care worker acting within the scope of his or her licensure or certification;

(e) By excluding coverage for personal care services provided by a home health aide;

(f) By requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service;

(g) By requiring that the insured or claimant have an acute condition before home health care services are covered;

(h) By limiting benefits to services provided by Medicare-certified agencies or providers; or

- (i) By excluding coverage for adult day care services.

(2) If a long-term care insurance policy or certificate provides for home health or community care services, it must provide total home health or community care coverage that is a dollar amount equivalent to at least one-half of one year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement does not apply to policies or certificates issued to residents of continuing care retirement communities.

(3) Home health care coverage may be applied to the nonhome health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.

(a) This permits the home health care benefits to be counted toward the maximum length of long-term care coverage under the policy.

(b) Home health care benefits must not be restricted to a period of time which would make the benefit illusory. For example, fewer than three hundred sixty-five benefit days and less than a twenty-five dollar daily maximum benefit are considered illusory home health care benefits.

NEW SECTION

WAC 284-83-055 Requirement to offer inflation protection. (1) No issuer may offer a long-term care insurance policy in this state unless the issuer also offers to the policyholder, in addition to any other inflation protection, the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Issuers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one of the following:

(a) Increases benefit levels annually in a manner so that the increases are compounded annually at a rate of not less than five percent.

(b) Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined. The amount of the additional benefit must be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made.

(c) Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

(2) If the policy is issued to a group, the required offer in subsection (1) of this section must be made to the group policyholder; however, if the policy is issued to a group defined in RCW 48.83.020 (6)(d), other than to a continuing care retirement community, the offering must be made to each proposed certificateholder.

(3) The offer in subsection (1) of this section is not required of life insurance policies or riders containing accelerated long-term care benefits.

(4)(a) Issuers must include the following information in or with the outline of coverage:

(i) A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison must show benefit levels over at least a twenty-year period; and

(ii) Any expected premium increases or additional premiums to pay for automatic or optional benefit increases.

(b) The issuer may use a reasonable hypothetical or a graphic demonstration for the purposes of this disclosure. For example, meaningful benefit minimums or durations could be demonstrated by showing increases to attained age, for a period such as at least twenty years, for some multiple of the policy's maximum benefit, or throughout the period of coverage.

(5) Inflation protection benefit increases under a policy that includes these benefits must continue without regard to the insured's age, claim status or claim history, or the length of time the person has been insured under the policy.

(6) An offer of inflation protection that provides for automatic benefit increases must include an offer of a premium which the issuer expects to remain constant. Unless the premium is guaranteed to remain constant, the offer must disclose in a conspicuous manner that the premium may change in the future.

(7)(a) Inflation protection as provided in subsection (1)(a) of this section must be included in any long-term care insurance policy unless the issuer obtains a rejection of inflation protection signed by the policyholder. The rejection may be either part of the application or on a separate form.

(b) The rejection is considered a part of the application.

(c) The following language, or language substantially similar to the following, must be set out conspicuously on the rejection:

"I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans _____, and I reject inflation protection."

NEW SECTION

WAC 284-83-060 Requirements for application forms and replacement coverage. (1) Application forms must include questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other health or long-term care policy or certificate presently in force.

(a) A supplementary application or other form, signed by the applicant and insurance producer, except where the coverage is sold without an insurance producer, containing the questions may be used. With regard to a replacement policy issued to a group defined by RCW 48.83.020 (6)(a), the required questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced, provided that the certificateholder has been notified of the replacement.

(b) The following questions, or words substantially similar to the following, must be used:

(i) "Do you have another long-term care insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?

(ii) Did you have another long-term care insurance policy or certificate in force during the last twelve months? If so, with which company? If that policy lapsed, when did it lapse?

(iii) Are you covered by Medicaid?

(iv) Do you intend to replace any of your medical or health insurance coverage with this policy [certificate]?"

(2) Insurance producers must list any other health insurance policies they have sold to the applicant that are still in force and any similar policies sold in the past five years that are no longer in force.

(3) Solicitations other than direct response. Upon determining that a sale will involve replacement, the issuer, other than an issuer using direct response solicitation methods, or its insurance producer, must furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of health care or long-term care coverage. One copy of the notice must be retained by the applicant and an additional copy must be signed by the applicant and must be retained by the issuer. The notice set forth in WAC 284-83-063 must be used.

(4) Direct response solicitations. Issuers using direct response solicitation methods must deliver a notice regarding replacement of health or long-term care coverage to the applicant upon issuance of the policy. The required notice set forth in WAC 284-83-067 must be used.

(5) If replacement is intended, the replacing issuer must notify the existing issuer of the proposed replacement in writing. The existing policy must be identified by the issuer, including the name of the insured and policy number or address plus zip code. Notice must be made within five working days after the date the application is received by the issuer or the date the policy is issued, whichever is sooner.

(6) Life insurance policies that accelerate benefits for long-term care must comply with this section if the policy being replaced is a long-term care insurance policy.

(a) If the policy being replaced is a life insurance policy, the issuer must comply with the replacement requirements of WAC 284-23-400 through 284-23-485.

(b) If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing issuer must comply with both the long-term care and the life insurance replacement requirements.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 284-83-063 Notice to applicant regarding replacement of individual accident and sickness or long-term care insurance marketed by an insurance producer. The following notice is required in WAC 284-83-060(3):

NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL [ACCIDENT AND SICKNESS] [HEALTH] OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing [accident and sickness] [health] or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] insurance company. Your new policy provides thirty days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all [accident and sickness] [health] or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY [AGENT, BROKER, INSURANCE PRODUCER OR OTHER REPRESENTATIVE]:

(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

- (1) Health conditions that you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.
- (2) State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.
- (3) If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its [agent] [insurance producer] regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
- (4) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of [Agent, Broker] [Insurance Producer] or Other Representative)

[Typed Name and Address of [Agent or Broker] [Insurance Producer]]

The above "Notice to Applicant" was delivered to me on:

(Applicant's Signature)

(Date)

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 284-83-067 Notice to applicant regarding replacement of direct-marketed individual accident and sickness or long-term care insurance. The following notice is required by WAC 284-83-060(4):

NOTICE TO APPLICANT REGARDING REPLACEMENT OF [ACCIDENT AND SICKNESS] [HEALTH] OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing [accident and sickness] [health] or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by [company name] insurance company. Your new policy provides thirty days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all [accident and sickness] [health] or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

- (1) Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.
- (2) State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.
- (3) If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its [agent] [insurance producer] regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
- (4) [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

[Company Name]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 284-83-070 Reporting requirements. (1) Every issuer must maintain records for each insurance producer of that producer's amount of replacement sales as a percent of the insurance producer's total annual sales and the amount of lapses of long-term care insurance policies sold by the insurance producer as a percent of the insurance producer's total annual sales.

(2) Every issuer must report annually by June 30 the ten percent of its insurance producers with the highest percentages of lapses and replacements as measured by subsection (1) of this section on the form set forth in WAC 284-83-195.

(3) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely insurance producer activities regarding the sale of long-term care insurance.

(4) Every issuer must report annually by June 30 the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year on the form set forth in WAC 284-83-195.

(5) Every issuer must report annually by June 30 the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year on the form set forth in WAC 284-83-195.

(6) Every issuer must report annually by June 30, for qualified long-term care insurance policies, the number of claims denied for each class of business, expressed as a percentage of claims denied on the form set forth in WAC 284-83-185.

(7) As used in this section:

(a) "Policy" refers only to long-term care insurance policies;

(b) "Claim" means a request for payment of benefits under an in-force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met;

(c) "Denied" means that the issuer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition; and

(d) "Report" means on a statewide basis.

(8) Reports required under this section must be filed with the commissioner.

NEW SECTION

WAC 284-83-075 Discretionary powers of commissioner. Upon written request and after an administrative hearing, the commissioner may enter an order to modify or suspend a specific provision or provisions of this chapter

with respect to a specific long-term care insurance policy or certificate upon a written finding that:

(1) The modification or suspension would be in the best interest of the insureds;

(2) The purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and

(3)(a) The modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care; or

(b) The policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or

(c) The modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product.

NEW SECTION

WAC 284-83-080 Reserve standards. (1) If long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for the benefits must be determined in accordance with RCW 48.74.030 (1)(g). Claim reserves must also be established in the case when the policy or rider is in claim status. Reserves for policies and riders subject to this subsection should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits; however, in no event shall the reserves for the long-term care benefit and the life insurance benefit be less than the reserves for the life insurance benefit assuming no long-term care benefit. In the development and calculation of reserves for policies and riders subject to this subsection, due regard must be given to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which have an impact on projected claim costs, including, but not limited to, the following:

- (a) Definition of insured events;
- (b) Covered long-term care facilities;
- (c) Existence of home convalescence care coverage;
- (d) Definition of facilities;
- (e) Existence or absence of barriers to eligibility;
- (f) Premium waiver provision;
- (g) Renewability;
- (h) Ability to raise premiums;
- (i) Marketing method;
- (j) Underwriting procedures;
- (k) Claims adjustment procedures;
- (l) Waiting period;
- (m) Maximum benefit;
- (n) Availability of eligible facilities;
- (o) Margins in claim costs;

- (p) Optional nature of benefit;
- (q) Delay in eligibility for benefit;
- (r) Inflation protection provisions; and
- (s) Guaranteed insurability option.

(2) If long-term care benefits are provided other than as provided in subsection (1) of this section, reserves must be determined in accordance with the accounting practices and procedures manuals adopted by the National Association Of Insurance Commissioners, unless otherwise provided by law, as required by RCW 48.05.073.

(3) Any applicable valuation morbidity table must be certified as appropriate as a statutory valuation table by a member of the American Academy of Actuaries.

NEW SECTION

WAC 284-83-090 Premium rate schedule increases.

(1)(a) Except as provided in (b) of this subsection, this section applies to any long-term care policy or certificate issued in this state on or after January 1, 2009.

(b) For certificates issued on or after January 1, 2009, under a group long-term care insurance policy as defined in RCW 48.83.020 (6)(a), which policy was in force before January 1, 2009, the provisions of this section apply on the first policy anniversary following January 1, 2009.

(2) The issuer must provide notice of a pending premium rate schedule increase, including an exceptional increase, to the commissioner at least thirty days prior to giving the notice to the policyholders and must include:

- (a) Information required by WAC 284-83-035;
- (b) Certification by a qualified actuary that:

(i) If the requested premium rate schedule increase is implemented and the underlying assumptions which reflect moderately adverse conditions are realized, no further premium rate schedule increases are anticipated;

(ii) The premium rate filing is in compliance with the provisions of this section;

(c) An actuarial memorandum justifying the rate schedule change request that includes:

(i) Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase, and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale.

(A) Annual values for the five years preceding and the three years following the valuation date must be provided separately.

(B) The projections must include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase.

(C) The projections must demonstrate compliance with subsection (3) of this section.

- (D) For exceptional increases:

(I) The projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and

(II) In the event the commissioner determines that offsets may exist, the issuer must use appropriate net projected experience;

(ii) Disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse;

(iii) Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the issuer have been relied on by the actuary;

(iv) A statement that policy design, underwriting and claims adjudication practices have been taken into consideration; and

(v) Composite rates reflecting projections of new certificates, if it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase;

(d) A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the commissioner; and

(e) Sufficient information for review of the premium rate schedule increase by the commissioner.

(3) All premium rate schedule increases must be determined in accordance with the following requirements:

(a) Exceptional increases must provide that seventy percent of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;

(b) Premium rate schedule increases must be calculated so that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(i) The accumulated value of the initial earned premium times fifty-eight percent;

(ii) Eighty-five percent of the accumulated value of prior premium rate schedule increases on an earned basis;

(iii) The present value of future projected initial earned premiums times fifty-eight percent; and

(iv) Eighty-five percent of the present value of future projected premiums not in (b)(iii) of this subsection on an earned basis;

(c) In the event that a policy form has both exceptional and other increases, the values in (b)(ii) and (iv) of this subsection will also include seventy percent for exceptional rate increase amounts; and

(d) All present and accumulated values used to determine rate increases must use the maximum valuation interest rate for policy reserves as specified in the accounting practices and procedures manuals adopted by the National Association Of Insurance Commissioners, except as otherwise provided by RCW 48.05.073. The actuary must disclose as part of the actuarial memorandum the use of any appropriate averages.

(4) For each rate increase that is implemented, the issuer must file for review by the commissioner updated projections, as defined in subsection (2)(c)(i) of this section, annually for the next three years and include a comparison of actual results to projected values. The commissioner may extend the period to greater than three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions

set forth in subsection (11) of this section, the projections required by this subsection may be provided to the policyholder in lieu of filing with the commissioner.

(5) If any premium rate in the revised premium rate schedule is greater than two hundred percent of the comparable rate in the initial premium schedule, lifetime projections, as defined in subsection (2)(c)(i) of this section, must be filed for review by the commissioner every five years following the end of the required period in subsection (4) of this section. For group insurance policies that meet the conditions in subsection (11) of this section, the projections required by this subsection may be provided to the policyholder in lieu of filing with the commissioner.

(6)(a) If the commissioner determines that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (3) of this section, the commissioner may require the issuer to implement either premium rate schedule adjustments or other measures to reduce the difference between the projected and actual experience.

(b) In determining whether the actual experience adequately matches the projected experience, consideration should be given to subsection (2)(c)(v) of this section, as applicable.

(c) For purposes of this section:

(i) The term "adequately match the projected experience" requires more than a comparison between actual and projected incurred claims. Other assumptions should be taken into consideration, including lapse rates (including mortality), interest rates, margins for moderately adverse conditions, or any other assumptions used in the pricing of the product.

(ii) It is to be expected that the actual experience will not exactly match the issuer's projections. During the period that projections are monitored, the commissioner will determine whether there is an adequate match if the differences in earned premiums and incurred claims are not in the same direction (both actual values higher or lower than projections) or the difference as a percentage of the projected is not of the same order.

(7) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the issuer must file:

(a) A plan, subject to commissioner approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form, requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the commissioner may impose the condition in subsection (8) of this section; and

(b) The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to subsection (8) of this section, had the greater of the original anticipated lifetime loss ratio or fifty-eight percent been used in the calculations described in subsection (3)(b)(i) and (iii) of this section.

(8)(a) For a rate increase filing that meets the following criteria for all policies included in the filing, the commissioner must review the projected lapse rates and past lapse rates during the twelve months following each increase to determine if significant adverse lapsation has occurred or is anticipated:

(i) The rate increase is not the first rate increase requested for the specific policy form or forms;

(ii) The rate increase is not an exceptional increase; and

(iii) The majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

(b) If significant adverse lapsation has occurred, is anticipated in the filing, or is evidenced in the actual results as presented in the updated projections provided by the issuer following the requested rate increase, the commissioner may determine that a rate spiral exists. Following the determination that a rate spiral exists, the commissioner may require the issuer to offer all in-force insureds subject to the rate increase the option to replace existing coverage with one or more reasonably comparable products being offered by the issuer or its affiliates without underwriting.

(i) The offer shall:

(A) Be subject to the approval of the commissioner;

(B) Be based on actuarially sound principles, but not be based on attained age; and

(C) Provide that maximum benefits under any new policy accepted by the insured must be reduced by comparable benefits already paid under the existing policy.

(ii) The issuer must maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase will be limited to the lesser of:

(A) The maximum rate increase determined based on the combined experience; and

(B) The maximum rate increase determined based only on the experience of the insureds originally issued the form plus ten percent.

(9) If the commissioner determines that the issuer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, in addition to the provisions of subsection (8) of this section, the commissioner may prohibit the issuer from either of the following:

(a) Filing and marketing comparable coverage for a period of up to five years; or

(b) Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

(10) Subsections (1) through (9) of this section do not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in WAC 284-83-010, if the policy complies with all of the following provisions:

(a) The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

(b) The portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements (as applicable) in any of the following:

(i) Chapter 48.76 RCW;

(ii) RCW 48.23.420 through 48.23.450; and

(iii) RCW 48.18A.050;

(c) The policy meets the disclosure requirements of RCW 48.83.070(2) and 48.83.080;

(d) The portion of the policy that provides insurance benefits other than long-term care coverage meets the applicable requirements in the following:

(i) Policy illustrations as required by chapter 48.23A RCW;

(ii) Disclosure requirements in WAC 284-23-300 through 284-23-370; and

(iii) Disclosure requirements in RCW 48.18A.030;

(e) An actuarial memorandum is filed with the insurance department that includes:

(i) A description of the basis on which the long-term care rates were determined;

(ii) A description of the basis for the reserves;

(iii) A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(iv) A description and a table of each actuarial assumption used. For expenses, the issuer must include percent of premium dollars per policy and dollars per unit of benefits, if any;

(v) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(vi) The estimated average annual premium per policy and the average issue age;

(vii) A statement as to whether underwriting is performed at the time of application. The statement must indicate whether underwriting is used and, if used, the statement must include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement must indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

(viii) A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.

(11) Subsections (6) and (8) of this section do not apply to group insurance policies as defined in RCW 48.83.020 (6)(a), if:

(a) The policies insure two hundred fifty or more persons and the policyholder has five thousand or more eligible employees of a single employer; or

(b) The policyholder, and not the certificateholder, pays a material portion of the premium, which must not be less than twenty percent of the total premium for the group in the calendar year prior to the year a rate increase is filed.

NEW SECTION

WAC 284-83-095 Filing requirements. Prior to offering group long-term care insurance to a resident of this state

pursuant to RCW 48.83.030, the issuer or similar organization must file with the commissioner evidence that the group policy or certificate has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those of this state.

NEW SECTION

WAC 284-83-100 Filing requirements for advertising. (1) Every issuer or other entity issuing long-term care insurance in this state must provide a copy of any long-term care insurance advertisement intended for use in this state whether through written, radio or television medium for review by the commissioner. In addition, a copy of all advertisements must be retained by the issuer for at least three years after the date the advertisement was first used.

(2) The commissioner may exempt from these requirements any advertising form or material when, in the commissioner's opinion, this requirement may not be reasonably applied.

NEW SECTION

WAC 284-83-105 Standards for marketing. (1) Every issuer or entity marketing long-term care insurance coverage in this state, directly or through its insurance producers, must:

(a) Establish marketing procedures and insurance producer training requirements to ensure that:

(i) Any marketing activities, including any comparison of policies, by its insurance producers, other representatives, or employees are fair and accurate; and

(ii) Excessive insurance is not sold or issued.

(b) Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following notice:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

(c) Provide copies of the disclosure forms required in WAC 284-83-035(3), 284-83-170 and 284-83-190 to the applicant.

(d) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has health or long-term care insurance and the types and amounts of any such insurance. For qualified long-term care insurance policies, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has health care coverage is not required.

(e) Every issuer or other entity marketing long-term care insurance must establish auditable procedures for verifying compliance with this subsection.

(f) If the state in which the policy or certificate is to be delivered or issued for delivery has a senior insurance counseling program approved by its commissioner, at time of solicitation for long-term care insurance the issuer must provide written notice to the prospective policyholder and certificateholder that the counseling program is available and provide its name, address and telephone number.

(g) For long-term care insurance policies, use the terms "noncancelable" or "level premium" only when the policy or certificate conforms to WAC 284-83-020 (1)(c).

(h) Provide an explanation of contingent benefit upon lapse provided for in WAC 284-83-130 (4)(c) and, if applicable, the additional contingent benefit upon lapse provided to policies with fixed or limited premium paying periods in WAC 284-83-130 (4)(d).

(2) In addition to the practices prohibited in chapters 48.30 RCW and 284-30 WAC, the following acts and practices are prohibited:

(a) Twisting, as defined in RCW 48.30.180.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.

(c) Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company.

(d) Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.

(3)(a) With respect to the obligations set forth in this subsection, the primary responsibility of an association, as defined in RCW 48.83.020 (6)(b), when endorsing or selling long-term care insurance must be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations must provide objective information regarding long-term care insurance policies or certificates endorsed or sold by the associations to ensure that members of the associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold.

(b) The issuer must file with the commissioner the following material:

(i) The policy and certificate;

(ii) A corresponding outline of coverage; and

(iii) All advertisements requested by the commissioner.

(c) The association must disclose in any long-term care insurance solicitation:

(i) The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and

(ii) A brief description of the process under which the policies and the issuer issuing the policies were selected.

(d) If the association and the issuer have interlocking directorates or trustee arrangements, the association must disclose that fact to its members.

(e) The board of directors of associations selling or endorsing long-term care insurance policies or certificates must review and approve the insurance policies as well as the compensation arrangements made with the issuer.

(f) The association must also:

(i) At the time of the association's decision to endorse the selling of long-term care insurance policies or certificates, engage the services of a person with expertise in long-term

care insurance not affiliated with the issuer to conduct an examination of the policies (including its benefits, features, and rates) and update the examination thereafter in the event of material change;

(ii) Actively monitor the marketing efforts of the issuer and its producers; and

(iii) Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates.

Subsections (3)(f)(i) through (f)(iii) of this section do not apply to qualified long-term care insurance policies.

(g) No group long-term care insurance policy or certificate may be issued to an association unless the issuer files with the commissioner the information required in this subsection.

(h) The issuer must not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the issuer certifies annually that the association has complied with the requirements set forth in this section.

(i) Failure to comply with the filing and certification requirements of this section constitutes an unfair trade practice.

NEW SECTION

WAC 284-83-110 Suitability. (1) This section does not apply to life insurance policies that accelerate benefits for long-term care.

(2) Every issuer or other entity marketing long-term care insurance must:

(a) Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant;

(b) Train its insurance producers in the use of its suitability standards; and

(c) Maintain a copy of its suitability standards and make it available for inspection upon request by the commissioner.

(3)(a) To determine whether the applicant meets the standards developed by the issuer, the insurance producer and the issuer must develop procedures that take the following into consideration:

(i) The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;

(ii) The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and

(iii) The values, benefits and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement.

(b) The issuer, and if an insurance producer is involved, the insurance producer must make reasonable efforts to obtain the information set out in subsection (2)(a) of this section. The efforts must include presentation to the applicant, at or prior to application, the "long-term care insurance personal worksheet." The personal worksheet used by the issuer must contain, at a minimum, the information in the format set forth in WAC 284-83-170, in not less than twelve point type. The issuer may request the applicant to provide additional

information to comply with its suitability standards. A copy of the form of the issuer's personal worksheet must be filed with the commissioner.

(c) Except for sales of employer-group long-term care insurance to employees and their spouses, a completed personal worksheet must be returned to the issuer prior to the issuer's consideration of the applicant for coverage.

(d) The sale, distribution, use or dissemination in any way by the issuer or insurance producer of information obtained through the personal worksheet is prohibited.

(4) The issuer must use the suitability standards it has developed pursuant to this section in determining whether issuing long-term care insurance coverage to the applicant is appropriate.

(5) Insurance producers must use the suitability standards developed by the issuer in all marketing or solicitation of long-term care insurance.

(6) At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "things you should know before you buy long-term care insurance" must be provided. The form must be in the format set forth in WAC 284-83-175, in not less than twelve point type.

(7) If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer may send the applicant a letter similar to the form set forth in WAC 284-83-180. If the applicant declines to provide financial information, the issuer may use another method to verify the applicant's intent. The applicant's returned letter or a record of the alternative method of verification must be made part of the applicant's file.

(8) The issuer must report annually to the commissioner the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of applicants who chose to confirm after receiving a suitability letter.

NEW SECTION

WAC 284-83-115 Prohibition against preexisting conditions and probationary periods in replacement policies or certificates. If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing issuer must waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy.

NEW SECTION

WAC 284-83-120 Availability of new services or providers. (1) The issuer must notify policyholders of the availability of a new long-term policy series that provides coverage for new long-term care services or providers material in nature and not previously available through the issuer to the general public. The notice must be provided within twelve months after the date the new policy series is made available

for sale in this state. Changes to policy structure or benefits or provisions that are minor in nature are not "new long-term care services or providers material in nature." Examples of when notification need not be provided include changes in elimination periods, benefit periods or benefit amounts.

(2) Notwithstanding subsection (1) of this section, notification is not required for any long-term care insurance policy issued prior to January 1, 2009, or to any policyholder or certificateholder who is currently eligible for benefits, within an elimination period or on a claim, previously had been in claim status, or who would not be eligible to apply for coverage due to issue age limitations under the new policy series. The issuer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium in order to add the new services or providers.

(3) The issuer must make the new coverage available in one of the following ways:

(a) By adding a rider to the existing policy and charging a separate premium for the new rider based on the insured's attained age;

(b) By exchanging the existing policy or certificate for one with an issue age based on the attained age of the insured and recognizing past insured status by granting premium credits toward the premiums for the new policy or certificate. The premium credits must be based on premiums paid or reserves held for the prior policy or certificate;

(c) By exchanging the existing policy or certificate for a new policy or certificate in which consideration for past insured status is recognized by setting the premium for the new policy or certificate at the issue age of the policy or certificate being exchanged. The cost for the new policy or certificate may recognize the difference in reserves between the new policy or certificate and the original policy or certificate; or

(d) By an alternative program developed by the issuer that meets the intent of this section if the program is filed with and approved by the commissioner.

(4) The issuer is not required to notify its policyholders of a new proprietary policy series created and filed for use in a limited distribution channel. For purposes of this subsection, "limited distribution channel" means distribution through a discrete entity, such as a financial institution or brokerage, through which specialized products are made available that are not available for sale to the general public. Policyholders that purchase a new proprietary policy must be notified when a new long-term care policy series that provides coverage for new long-term care services or providers material in nature is made available to that limited distribution channel.

(5) Policies issued pursuant to this section will be considered exchanges and not replacements. These exchanges are not subject to WAC 284-83-060 and 284-83-110, and the reporting requirements of WAC 284-83-065 (1) through (5).

(6)(a) If the policy is offered through an employer, labor organization, professional, trade or occupational association, the required notification in subsection (1) of this section must be made to the offering entity.

(b) If the policy is issued to a group defined in RCW 48.83.020 (6)(d), the notification must be made to each certificateholder.

(7) Nothing in this section prohibits the issuer from offering any policy, rider, certificate or coverage change to any policyholder or certificateholder. Upon request, any policyholder may apply for currently available coverage that includes the new services or providers. The issuer may require the policyholder to meet all eligibility requirements, including underwriting and payment of the required premium to add new services or providers.

(8) This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

NEW SECTION

WAC 284-83-125 Right to reduce coverage and lower premiums. (1)(a) Every long-term care insurance policy and certificate must include a provision that allows the policyholder or certificateholder to reduce coverage and lower the policy or certificate premium in at least one of the following ways:

- (i) Reducing the maximum benefit; or
- (ii) Reducing the daily, weekly or monthly benefit amount.

(b) The issuer may also offer other reduction options that are consistent with the policy or certificate design or the issuer's administrative processes.

(2) The provision must include a description of the ways in which coverage may be reduced and the process for requesting and implementing a reduction in coverage.

(3) The age to determine the premium for the reduced coverage must be based on the age used to determine the premiums for the coverage currently in force.

(4) The issuer may limit any reduction in coverage to plans or options available for that policy form and to those for which benefits will be available after consideration of claims paid or payable.

(5) If a policy or certificate is about to lapse, the issuer must provide a written reminder to the policyholder or certificateholder of his or her right to reduce coverage and premiums in the notice required by WAC 284-83-025 (1)(c).

(6) Compliance with this section may be accomplished by policy replacement, exchange or by adding the required provision via amendment or endorsement to the policy.

(7) This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

NEW SECTION

WAC 284-83-130 Nonforfeiture benefit requirement.

(1) This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

(2) To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of RCW 48.83.120:

(a) A policy or certificate offered with nonforfeiture benefits must have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage issued by the issuer without nonforfeiture benefits. The nonforfeiture benefit included in the offer must be the benefit described in subsection (5) of this section; and

(b) The offer must be in writing if the nonforfeiture benefit is not otherwise described in the outline of coverage or other materials given to the prospective policyholder.

(3) If the offer required to be made under RCW 48.83.120 is rejected, the issuer must provide the contingent benefit upon lapse described in this section. The contingent benefit on lapse in subsection (4)(d) of this section applies even if this offer is accepted for a policy with a fixed or limited premium paying period.

(4)(a) After rejection of the offer required under RCW 48.83.120, for individual and group policies without nonforfeiture benefits issued after the effective date of this section, the issuer must provide a contingent benefit upon lapse.

(b) If a group policyholder elects to make the nonforfeiture benefit an option to the certificateholder, a certificate must provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(c) A contingent benefit on lapse must be triggered every time the issuer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in the following table based on the insured's issue age, and the policy or certificate lapses within one hundred twenty days after the due date of the premium so increased. Unless otherwise required, policyholders must be notified at least thirty days prior to the date the premium reflecting the rate increase is due.

Triggers for a Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%

Triggers for a Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
69	42%
70	40%
71	38%
72	36%

Issue Age	Percent Increase Over Initial Premium
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

(d) A contingent benefit on lapse must also be triggered for policies with a fixed or limited premium paying period every time the issuer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in the following table based on the insured's issue age, the policy or certificate lapses within one hundred twenty days after the due date of the premium so increased, and the ratio in (f)(ii) of this subsection is forty percent or more. Unless otherwise required, policyholders must be notified at least thirty days prior to the date the premium reflecting the rate increase is due. This requirement is in addition to the contingent benefit provided by subsection (3) of this section and if both are triggered, the benefit provided must be at the option of the insured.

Triggers for a Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

(e) On or before the effective date of a substantial premium increase as defined in (c) of this subsection, the issuer must:

(i) Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

(ii) Offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of subsection (5) of this section. This option may be elected at any time during the one hundred twenty-day period provided for in (c) of this subsection; and

(iii) Notify the policyholder or certificateholder that a default or lapse at any time during the one hundred twenty-day period provided for in (c) of this subsection will be deemed to be the election of the offer to convert in (e)(ii) of this subsection unless the automatic option in (f)(iii) of this subsection applies.

(f) On or before the effective date of a substantial premium increase as defined in (d) of this subsection, the issuer must:

(i) Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

(ii) Offer to convert the coverage to a paid-up status where the amount payable for each benefit is ninety percent of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the one hundred twenty-day period provided for in (d) of this subsection; and

(iii) Notify the policyholder or certificateholder that a default or lapse at any time during the one hundred twenty-day period provided for in (d) of this subsection will be deemed to be the election of the offer to convert in (f)(ii) of this subsection if the ratio is forty percent or more.

(5) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse in accordance with subsection (4)(c) but not (d) of this subsection, are described in this subsection:

(a) For purposes of this subsection, "attained age rating" is defined as a schedule of premiums starting from the issue date which increases age at least one percent per year prior to age fifty, and at least three percent per year beyond age fifty.

(b) For purposes of this subsection, the nonforfeiture benefit must be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits must be determined as specified in (c) of this subsection.

(c) The standard nonforfeiture credit will be equal to one hundred percent of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The issuer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration; however, the minimum nonforfeiture credit must not be less than thirty times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of subsection (6) of this section.

(d)(i) The nonforfeiture benefit must begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse must be effective during the first three years as well as thereafter.

(ii) Notwithstanding (d)(i) of this subsection, for a policy or certificate with attained age rating, the nonforfeiture benefit must begin on the earlier of:

(A) The end of the tenth year following the policy or certificate issue date; or

(B) The end of the second year following the date the policy or certificate is no longer subject to attained age rating.

(e) Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

(6) All benefits paid by the issuer while the policy or certificate is in premium-paying status or in paid-up status must not exceed the maximum benefits that would be payable if the policy or certificate had remained in premium-paying status.

(7) No difference in the minimum nonforfeiture benefits as required under this section for group and individual policies is permitted.

(8) The requirements set forth in this section must become effective twelve months after adoption of this provision and must apply as follows:

(a) Except as provided in (b) and (c) of this subsection, this section applies to any long-term care policy issued in this state on or after January 1, 2009.

(b) This section does not apply to certificates issued on or after the effective date of this section under a group long-term care insurance policy as defined in RCW 48.83.020 (6)(a), if policy was in force on January 1, 2009.

(c) The last sentence in subsection (3) of this section and subsection (4)(d) and (f) of this section apply to any long-term care insurance policy or certificate issued in this state six months after their adoption, except as to new certificates on a group policy as defined in RCW 48.83.020 (6)(a), those sentences apply to any long-term care insurance policy or certificate issued in this state one year after adoption.

(9) Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse is subject to the loss ratio requirements of WAC 284-83-085 or 284-83-090, whichever is applicable, treating the policy as a whole.

(10) To determine whether contingent nonforfeiture upon lapse provisions are triggered under subsection (4)(c) or (d) of this section, a replacing issuer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another issuer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original issuer.

(11) A nonforfeiture benefit for qualified long-term care insurance policies that are level premium policies must be offered and must meet the following requirements:

(a) The nonforfeiture provision must be appropriately captioned;

(b) The nonforfeiture provision must provide a benefit available in the event of a default in the payment of any premiums and must state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying policies approved by the commissioner for the same policy form; and

(c) The nonforfeiture provision must provide at least one of the following:

- (i) Reduced paid-up insurance;
- (ii) Extended term insurance;
- (iii) Shortened benefit period; or
- (iv) Other similar offerings approved by the commissioner.

NEW SECTION

WAC 284-83-135 Standards for benefit triggers. (1)

A long-term care insurance policy must condition the payment of benefits on a determination of the insured's ability to perform activities of daily living or on cognitive impairment of the insured. Eligibility for the payment of benefits must not be more restrictive than requiring either a deficiency in the ability to perform not more than three of the activities of daily living or the presence of cognitive impairment.

(2)(a) Activities of daily living must include at least the following, as defined in WAC 284-83-015, and must be defined in the policy:

- (i) Bathing;
- (ii) Continence;
- (iii) Dressing;
- (iv) Eating;
- (v) Toileting; and
- (vi) Transferring;

(b) Issuers may use activities of daily living to trigger covered benefits in addition to those contained in subsection (1)(a) of this section only if they are defined in the policy.

(3) The issuer may use additional provisions for the determination of when benefits are payable under a policy or certificate; however the provisions must not restrict, and must not be in lieu of, the requirements contained in subsections (1) and (2) of this section.

(4) For purposes of this section the determination of a deficiency must not be more restrictive than:

(a) Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or

(b) If the deficiency is due to the presence of a cognitive impairment, supervision or verbal cueing by another person is needed in order to protect the insured or others.

(5) Assessments of activities of daily living and cognitive impairment must be performed by licensed or certified professionals, such as physicians, nurses or social workers.

(6) Long-term care insurance policies must include a clear description of the process for appealing and resolving benefit determinations.

(7)(a) Except as provided in (b) of this subsection, the provisions of this section apply to a long-term care policy issued in this state on or after January 1, 2009.

(b) The provisions of this section do not apply to certificates issued on or after the effective date of this section under a group long-term care insurance policy as defined in RCW 48.83.020 (6)(a) that were in force on January 1, 2009.

NEW SECTION

WAC 284-83-140 Qualified long-term care insurance policies—Additional standards for benefit triggers. (1) For purposes of this section the following definitions apply:

(a) "Qualified long-term care services" means services that meet the requirements of Section 7702 (c)(1) of the Inter-

nal Revenue Code of 1986, as amended, including: Necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation and rehabilitative services, and maintenance or personal care services which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(b)(i) "Chronically ill individual" has the meaning of Section 7702B (c)(2) of the Internal Revenue Code of 1986, as amended. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as:

(A) Being unable to perform (without substantial assistance from another individual) at least two activities of daily living for a period of at least ninety days due to a loss of functional capacity; or

(B) Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

(ii) The term "chronically ill individual" does not include an individual otherwise meeting these requirements unless within the preceding twelve-month period a licensed health care practitioner certified that the individual meets these requirements.

(c) "Licensed health care practitioner" means a physician, as defined in Section 1861 (r)(1) of the Social Security Act, a registered professional nurse, licensed social worker or other individual who meets requirements prescribed by the federal Secretary of the Treasury.

(d) "Maintenance or personal care services" means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

(2) A qualified long-term care insurance policy must pay only for qualified long-term care services received by a chronically ill individual provided pursuant to a plan of care prescribed by a licensed health care practitioner.

(3) A qualified long-term care insurance policy must condition the payment of benefits on a determination of the insured's inability to perform activities of daily living for an expected period of at least ninety days due to a loss of functional capacity or to severe cognitive impairment.

(4) Certifications regarding activities of daily living and cognitive impairment required pursuant to subsection (3) of this section must be performed by a licensed or certified physician, registered professional nurse, licensed social worker, or other individual who meet requirements prescribed by the federal Secretary of the Treasury.

(5) Certifications required pursuant to subsection (3) of this section may be performed by a licensed health care professional at the direction of the issuer as is reasonably necessary with respect to a specific claim; except that when a licensed health care practitioner has certified that the insured is unable to perform activities of daily living for an expected period of at least ninety days due to a loss of functional capacity and the insured is in claim status, the certification may not be rescinded and additional certifications may not be performed until after the expiration of the ninety-day period.

(6) Qualified long-term care insurance policies must include a clear description of the process for appealing and resolving disputes with respect to benefit determinations.

NEW SECTION

WAC 284-83-145 Standard format outline of coverage. The following standards apply to the format and outline of coverage to be used in this state.

(1) The outline of coverage must be a free-standing document, using no smaller than ten-point type.

(2) The outline of coverage must contain no material of an advertising nature.

(3) Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring.

(4) Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated.

(5) The following format for outline of coverage must be used in this state:

[COMPANY NAME]

[ADDRESS - CITY & STATE]

[TELEPHONE NUMBER]

LONG-TERM CARE INSURANCE

OUTLINE OF COVERAGE

[Policy Number or Group Master Policy and Certificate Number]

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.]

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [Insert address].

1. This policy is [an individual policy of insurance] [a group policy] which was issued in the [indicate jurisdiction in which group policy was issued].

2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance policy, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY [OR CERTIFICATE] CAREFULLY!

3. FEDERAL TAX CONSEQUENCES.

This [POLICY] [CERTIFICATE] is intended to be a federally tax-qualified long-term care insurance policy under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

OR

Federal Tax Implications of this [POLICY] [CERTIFICATE]. This [POLICY] [CERTIFICATE] is not intended to be a federally tax-qualified long-term care insurance policy under Section 7702B(b) of the Internal Revenue Code of 1986 as amended. Benefits received under the [POLICY] [CERTIFICATE] may be taxable as income.

4. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE CONTINUED IN FORCE OR DISCONTINUED.

(a) [For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:

(1) Policies and certificates that are guaranteed renewable must contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy [certificate], to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.

(2) [Policies and certificates that are noncancelable must contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS NONCANCELLABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, [Company Name] may increase your premium at that time for those additional benefits.

(b) [For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;]

(c) [Describe waiver of premium provisions or state that there are not such provisions.]

5. TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.

[In bold type larger than the maximum type required to be used for the other provisions of the outline of coverage, state whether or not the company has a right to change the premium, and if a right exists, describe clearly and concisely each circumstance under which the premium may change.]

6. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

(a) [Provide a brief description of the right to return - "free look" provision of the policy.]

(b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of

premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]

7. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.

(a) [For insurance producers] neither [insert company name] nor its [agents] [insurance producers] represent Medicare, the federal government or any state government.

(b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.

8. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community or in the home.

This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

9. BENEFITS PROVIDED BY THIS POLICY.

(a) [Covered services, related deductibles, waiting periods, elimination periods and benefit maximums.]

(b) [Institutional benefits, by skill level.]

(c) [Noninstitutional benefits, by skill level.]

(d) Eligibility for Payment of Benefits

[Activities of daily living and cognitive impairment must be used to measure an insured's need for long-term care and must be defined and described as part of the outline of coverage.]

[Any additional benefit triggers must also be explained. If these triggers differ for different benefits, explanation of the triggers must accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified.]

10. LIMITATIONS AND EXCLUSIONS.

[Describe:

(a) Preexisting conditions;

(b) Noneligible facilities and provider;

(c) Noneligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

(d) Exclusions and exceptions;

(e) Limitations.]

[This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce,

delay, or in any other manner operate to qualify payment of the benefits described in Number 6 above.]

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

11. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

(a) That the benefit level will not increase over time;

(b) Any automatic benefit adjustment provisions;

(c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;

(d) If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations;

(e) And finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

12. ALZHEIMER'S DISEASE AND OTHER BRAIN DISORDERS.

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

13. PREMIUM.

[(a) State the total annual premium for the policy;

(b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

14. ADDITIONAL FEATURES.

[(a) Indicate if medical underwriting is used;

(b) Describe other important features.]

15. CONTACT THE STATE SENIOR HEALTH INSURANCE ASSISTANCE PROGRAM IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 284-83-150 Requirement to deliver shopper's guide. (1) A long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners, or a guide developed or approved by the commissioner, must be provided to all prospective applicants of a long-term care insurance policy or certificate.

(a) In the case of solicitations by an insurance producer, the insurance producer must deliver the shopper's guide prior to the presentation of an application or enrollment form.

(b) In the case of direct response solicitations, the shopper's guide must be presented in conjunction with any application or enrollment form.

(2) Issuers or insurance producers of life insurance policies or riders containing accelerated long-term care benefits are not required to furnish the shopper's guide, but must furnish the policy summary required by RCW 48.83.070(2).

NEW SECTION

WAC 284-83-155 Prohibited practices. The following practices are prohibited:

(1) No insurance producer or other representative of the issuer may complete the medical history portion of any form or application, including an electronic application, for the purchase of a long-term care policy.

(2) No issuer or insurance producer or other representative of the issuer may knowingly sell a long-term care policy to any person who is receiving Medicaid.

(3) No issuer or insurance producer or other representative of the issuer may use or engage in any unfair or deceptive act or practice in the advertising, sale or marketing of long-term care policies.

NEW SECTION

WAC 284-83-165 Form for reporting rescission of long-term care policies. The following form must be used by issuers to annually report rescission of long-term care policies.

RESCISSON REPORTING FORM FOR LONG-TERM CARE POLICIES FOR THE STATE
OF _____ FOR THE REPORTING YEAR 20[]

Company Name: _____

Address: _____

Phone Number: _____

Due: March 1, annually

Instructions: The purpose of this form is to report all rescissions of long-term care insurance policies or certificates. Those rescissions voluntarily effectuated by an insured are not required to be included in this report. Please furnish one form per rescission.

Policy Form #	Policy and Certificate #	Name of Insured	Date of Policy Issuance	Date/s Claim/s Submitted	Date of Rescission

Detailed reason for rescission: _____

Signature _____

Name and Title (please type) _____

Date _____

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 284-83-170 Form of personal worksheet. The following form of personal worksheet must be used by issuers in the sale of long-term care insurance policies.

Long-Term Care Insurance Personal Worksheet

People buy long-term care insurance for many reasons. Some don't want to use their own assets to pay for long-term care. Some buy insurance to make sure they can choose the type of care they get. Others don't want their family to have to pay for care or don't want to go on Medicaid. But long-term care insurance may be expensive, and may not be right for everyone.

By state law, the insurance company must fill out part of the information on this worksheet and **ask** you to fill out the rest to help you and the company decide if you should buy this policy.

Premium Information

Policy Form Numbers _____

The premium for the coverage you are considering will be [\$._____ per month, or \$_____ per year,] [a one-time single premium of \$_____.]

Type of Policy (noncancelable or guaranteed renewable): _____

The Company's Right to Increase Premiums: _____

[The company cannot raise your rates on this policy.] [The company has a right to increase premiums on this policy form in the future, provided it raises rates for all policies in the same class in this state.] [Issuers must use appropriate bracketed statement. Rate guarantees must not be shown on this form.]

Rate Increase History

The company has sold long-term care insurance since [year] and has sold this policy since [year]. [The company has never raised its rates for any long-term care policy it has sold in this state or any other state.] [The company has not raised its rates for this policy form or similar policy forms in this state or any other state in the last ten years.] [The company has raised its premium rates on this policy form or similar policy forms in the last ten years. Following is a summary of the rate increases.]

Questions Related to Your Income

How will you pay each year's premium?

From my Income From my Savings/Investments My Family will Pay

[Have you considered whether you could afford to keep this policy if the premiums went up, for example, by 20%?]

Note: The issuer is not required to use the bracketed sentence if the policy is fully paid up or is a noncancelable policy.

What is your annual income? (check one) Under \$10,000 \$[10-20,000] \$[20-30,000] \$[30-50,000] Over \$50,000

Note: The issuer may choose the numbers to put in the brackets to fit its suitability standards.

How do you expect your income to change over the next 10 years? (check one)

No change Increase Decrease

If you will be paying premiums with money received only from your own income, a rule of thumb is that you may not be able to afford this policy if the premiums will be more than 7% of your income.

Will you buy inflation protection? (check one) Yes No

If not, have you considered how you will pay for the difference between future costs and your daily benefit amount?

From my Income From my Savings/Investments My Family will Pay

The national average annual cost of care in [insert year] was [insert \$ amount], but this figure varies across the country. In ten years the national average annual cost would be about [insert \$ amount] if costs increase 5% annually.

Note: The projected cost can be based on federal estimates in a current year. In the above statement, the second figure equals 163% of the first figure.

What elimination period are you considering? Number of days _____ Approximate cost \$_____ for that period of care.

How are you planning to pay for your care during the elimination period? (check one)

From my Income From my Savings/Investments My Family will Pay

Questions Related to Your Savings and Investments

Not counting your home, about how much are all of your assets (your savings and investments) worth? (check one)

Under \$20,000 \$20,000-\$30,000 \$30,000-\$50,000 Over \$50,000

How do you expect your assets to change over the next ten years? (check one)

- Stay about the same Increase Decrease

If you are buying this policy to protect your assets and your assets are less than \$30,000, you may wish to consider other options for financing your long-term care.

Disclosure Statement

- The answers to the questions above describe my financial situation.

OR

- I choose not to complete this information.
(Check one.)

I acknowledge that the issuer and/or its [agent] [insurance producer] (below) has reviewed this form with me including the premium, premium rate increase history and potential for premium increases in the future. [For direct mail situations, use the following: I acknowledge that I have reviewed this form including the premium, premium rate increase history and potential for premium increases in the future.] I understand the above disclosures. **I understand that the rates for this policy may increase in the future.** (This box must be checked).

Signed: _____
(Applicant) (Date)

- [I explained to the applicant the importance of completing this information.

Signed: _____
[(Agent)] [(Insurance Producer)] (Date)

[Agent's] [Insurance Producer's] Printed Name: _____]

[In order for us to process your application, please return this signed statement to [name of company], along with your application.]

[My [agent] [insurance producer] has advised me that this policy does not seem to be suitable for me. However, I still want the company to consider my application.]

Signed: _____
(Applicant) (Date)

Drafting Note: Choose the appropriate sentences depending on whether this is a direct mail or [agent] [insurance producer] sale.

The company may contact you to verify your answers.

Note: When the Long-Term Care Insurance Personal Worksheet is furnished to employees and their spouses under employer group policies, the text from the heading "Disclosure Statement" to the end of the page may be removed.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 284-83-175 Disclosure form. The following form of disclosure must be used in this state.

Things You Should Know Before You Buy

Long-Term Care Insurance

Long-Term Care Insurance A long-term care insurance policy may pay most of the costs for your care in a nursing home. Many policies also pay for care at home or other community settings. Since policies can vary in coverage, you should read this policy and make sure you understand what it covers before you buy it.

[You should **not** buy this insurance policy unless you can afford to pay the premiums every year.]
[Remember that the company can increase premiums in the future.]

Note: For single premium policies, delete this bullet; for noncancelable policies, delete the second sentence only.

The personal worksheet includes questions designed to help you and the company determine whether this policy is suitable for your needs.

Medicare	Medicare does not pay for most long-term care.
Medicaid	Medicaid will generally pay for long-term care if you have very little income and few assets. You probably should not buy this policy if you are now eligible for Medicaid.
	Many people become eligible for Medicaid after they have used up their own financial resources by paying for long-term care services.
	When Medicaid pays your spouse's nursing home bills, you are allowed to keep your house and furniture, a living allowance, and some of your joint assets.
	Your choice of long-term care services may be limited if you are receiving Medicaid. To learn more about Medicaid, contact your local or state Medicaid agency.
Shopper's Guide	Make sure the insurance company or agent gives you a copy of a book called the National Association of Insurance Commissioners' "Shopper's Guide to Long-Term Care Insurance." Read it carefully. If you have decided to apply for long-term care insurance, you have the right to return the policy within 30 days and get back any premium you have paid if you are dissatisfied for any reason or choose not to purchase the policy.
Counseling	Free counseling and additional information about long-term care insurance are available through your state's insurance counseling program. Contact your state insurance department or department on aging for more information about the senior health insurance counseling program in your state.
Facilities	Some long-term care insurance policies provide for benefit payments in certain facilities only if they are licensed or certified, such as in assisted living centers. However, not all states regulate these facilities in the same way. Also, many people move into a different state from where they purchased their long-term care insurance policy. Read the policy carefully to determine what types of facilities qualify for benefit payments, and to determine that payment for a covered service will be made if you move to a state that has a different licensing scheme for facilities than the one in which you purchased the policy.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 284-83-180 Response letter. The following form of response letter must be used in this state.

Long-Term Care Insurance Suitability Letter

Dear [Applicant]:

Your recent application for long-term care insurance included a "personal worksheet," which asked questions about your finances and your reasons for buying long-term care insurance. For your protection, state law requires us to consider this information when we review your application, to avoid selling a policy to those who may not need coverage.

[Your answers indicate that long-term care insurance may not meet your financial needs. We suggest that you review the information provided along with your application, including the booklet "Shopper's Guide to Long-Term Care Insurance" and the page titled "Things You Should Know Before Buying Long-Term Care Insurance." Your state insurance department also has information about long-term care insurance and may be able to refer you to a counselor free of charge who can help you decide whether to buy this policy.]

[You chose not to provide any financial information for us to review.]

Note: Choose the paragraph that applies.

We have suspended our final review of your application. If, after careful consideration, you still believe this policy is what you want, check the appropriate box below and return this letter to us within the next 60 days. We will then continue reviewing your application and issue a policy if you meet our medical standards.

If we do not hear from you within the next 60 days, we will close your file and not issue you a policy. You should understand that you will not have any coverage until we hear back from you, approve your application and issue a policy.

Please check one box and return in the enclosed envelope.

Yes, [although my worksheet indicates that long-term care insurance may not be a suitable purchase,] I wish to purchase this coverage. Please resume review of my application.

Note: Delete the phrase in brackets if the applicant did not answer the questions about income.

No. I have decided not to buy a policy at this time.

APPLICANT'S SIGNATURE _____ DATE _____

Please return to [issuer] at [address] by [date].

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 284-83-185 Sample claims denial reporting form. The following form for reporting claims denials must be used in this state.

Claims Denial Reporting Form**Long-Term Care Insurance****For the State of** _____**For the Reporting Year of** _____

Company Name: _____

Due: June 30, annually

Company Address: _____

Company NAIC Number: _____

Contact Person: _____

Phone Number: _____

Line of Business: Individual Group

Instructions

The purpose of this form is to report all long-term care claim denials under in-force long-term care insurance policies. "Denied" means a claim that is not paid for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition.

		State Data	Nationwide Data¹
1	Total Number of Long-Term Care Claims Reported		
2	Total Number of Long-Term Care Claims Denied/Not Paid		
3	Number of Claims Not Paid Due to Preexisting Condition Exclusion		
4	Number of Claims Not Paid Due to Waiting (Elimination) Period Not Met		
5	Net Number of Long-Term Care Claims Denied for Reporting Purposes (Line 2 Minus Line 3 Minus Line 4)		
6	Percentage of Long-Term Care Claims Denied of Those Reported (Line 5 Divided By Line 1)		
7	Number of Long-Term Care Claim Denied Due to:		
8	• Long-Term Care Services Not Covered Under the Policy ²		
9	• Provider/Facility Not Qualified Under the Policy ³		
10	• Benefit Eligibility Criteria Not Met ⁴		
11	• Other		

Footnotes:

1. The nationwide data may be viewed as a more representative and credible indicator where the data for claims reported and denied for your state are small in number.
2. Example—Home health care claim filed under a nursing home only policy.
3. Example—A facility that does not meet the minimum level of care requirements or the licensing requirements as outlined in the policy.
4. Examples—A benefit trigger not met, certification by a licensed health care practitioner not provided, no plan of care.

NEW SECTION

WAC 284-83-190 Potential rate increase disclosure form. The following form must be used in this state to disclose a potential rate increase.

Instructions:

This form provides information to the applicant regarding premium rate schedules, rate schedule adjustments, potential rate revisions, and policyholder options in the event of a rate increase.

Issuers must provide all of the following information to the applicant:**Long-Term Care Insurance****Potential Rate Increase Disclosure Form**

1. [Premium Rate] [Premium Rate Schedules]: [Premium rate] [Premium rate schedules] that [is][are] applicable to you and that will be in effect until a request is made and [filed] for an increase [is][are] [on the application][\\$_____]

2. The [premium] [premium rate schedule] for this policy [will be shown on the schedule page of] [will be attached to] your policy.

3. Rate Schedule Adjustments:

The company will provide a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.) (fill in the blank): _____.

4. Potential Rate Revisions:

This Policy is Guaranteed Renewable. This means that the rates for this product may be increased in the future. Your rates CANNOT be increased due to your increasing age or declining health, but your rates may go up based on the experience of all policyholders with a policy similar to yours.

If you receive a premium rate or premium rate schedule increase in the future, you will be notified of the new premium amount and you will be able to exercise at least one of the following options:

- Pay the increased premium and continue your policy in force as is.
- Reduce your policy benefits to a level such that your premiums will not increase. (Subject to state law minimum standards.)
- Exercise your nonforfeiture option if purchased. (This option is available for purchase for an additional premium.)
- Exercise your contingent nonforfeiture rights.* (This option may be available if you do not purchase a separate nonforfeiture option.)

***Contingent Nonforfeiture**

If the premium rate for your policy goes up in the future and you didn't buy a nonforfeiture option, you may be eligible for contingent nonforfeiture. Here's how to tell if you are eligible:

You will keep some long-term care insurance coverage, if:

- Your premium after the increase exceeds your original premium by the percentage shown (or more) in the following table; and
- You lapse (not pay more premiums) within 120 days of the increase.

The amount of coverage (i.e., new lifetime maximum benefit amount) you will keep will equal the total amount of premiums you've paid since your policy was first issued. If you have already received benefits under the policy, so that the remaining maximum benefit amount is less than the total amount of premiums you've paid, the amount of coverage will be that remaining amount.

Except for this reduced lifetime maximum benefit amount, all other policy benefits will remain at the levels attained at the time of the lapse and will not increase thereafter.

Should you choose this Contingent Nonforfeiture option, your policy, with this reduced maximum benefit amount, will be considered "paid-up" with no further premiums due.

Example:

- You bought the policy at age 65 and paid the \$1,000 annual premium for 10 years, so you have paid a total of \$10,000 in premium.
- In the eleventh year, you receive a rate increase of 50%, or \$500 for a new annual premium of \$1,500, and you decide to lapse the policy (not pay any more premiums).

- Your "paid-up" policy benefits are \$10,000 (provided you have at least \$10,000 of benefits remaining under your policy.)

Contingent Nonforfeiture**Cumulative Premium Increase Over Initial Premium****That qualifies for Contingent Nonforfeiture**

(Percentage increase is cumulative from date of original issue. It does NOT represent a one-time increase.)

Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

[The following contingent nonforfeiture disclosure need only be included for those limited pay policies to which WAC 284-83-130 (4)(d) and (f) are applicable.]

In addition to the contingent nonforfeiture benefits described above, the following reduced "paid-up" contingent nonforfeiture benefit is an option in all policies that have a fixed or limited premium payment period, even if you selected a nonforfeiture ben-

efit when you bought your policy. If both the reduced "paid-up" benefit AND the contingent benefit described above are triggered by the same rate increase, you can choose either of the two benefits.

You are eligible for the reduced "paid-up" contingent nonforfeiture benefit when all three conditions shown below are met:

1. The premium you are required to pay after the increase exceeds your original premium by the same percentage or more shown in the chart below;

Triggers for a Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

2. You stop paying your premiums within 120 days of when the premium increase took effect;

AND

3. The ratio of the number of months you already paid premiums is 40% or more than the number of months you originally agreed to pay.

If you exercise this option, your coverage will be converted to reduced "paid-up" status. That means there will be no additional premiums required. Your benefits will change in the following ways:

- a. The total lifetime amount of benefits your reduced paid up policy will provide can be determined by multiplying 90% of the lifetime benefit amount at the time the policy becomes paid up by the ratio of the number of months you already paid premiums to the number of months you agreed to pay them.
- b. The daily benefit amounts you purchased will also be adjusted by the same ratio.

If you purchased lifetime benefits, only the daily benefit amounts you purchased will be adjusted by the applicable ratio.

Example:

- You bought the policy at age 65 with an annual premium payable for 10 years.
- In the sixth year, you receive a rate increase of 35% and you decide to stop paying premiums.
- Because you have already paid 50% of your total premium payments and that is more than the 40% ratio, your "paid-up" policy benefits are .45 (.90 times .50) times the total benefit amount that was in effect when you stopped paying your premiums. If you purchased inflation protection, it will not continue to apply to the benefits in the reduced "paid-up" policy.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 284-83-195 Form for reporting replacement and lapse of long-term care insurance policies. The following form must be used in this state to report replacements and lapses of long-term care insurance.

Long-Term Care Insurance Replacement and Lapse Reporting Form

For the State of _____ For the Reporting Year of _____

Company Name: _____

Due: June 30, Annually

Company Address: _____

Company NAIC Number: _____

Contact Person: _____ Phone Number: _____

Instructions

The purpose of this form is to report on a statewide basis information regarding long-term care insurance policy replacements and lapses. Specifically, every issuer must maintain records for each [agent] [insurance producer] on that [agent's] [insurance producer's] amount of long-term care insurance replacement sales as a percent of the [agent's] [insurance producer's] total annual sales and the amount of lapses of long-term care insurance policies sold by the [agent] [insurance producer] as a percent of the

[agent's] [insurance producer's] total annual sales. The tables below should be used to report the ten percent of the issuer's [agents] [insurance producers] with the greatest percentages of replacements and lapses.

Listing of the 10% of [Agents] [Insurance Producers] with the Greatest Percentage of Replacements

[Agent's] [Insurance Producer's] Name	Number of Policies Sold by This [Agent] [Insurance Producer]	Number of Policies Replaced by This [Agent] [Insurance Producer]	Number of Replacements as % of Number Sold by This [Agent] [Insurance Producer]

Listing of the 10% of [Agents] [Insurance Producers] with the Greatest Percentage of Lapses

[Agent's] [Insurance Producer's] Name	Number of Policies Sold by This [Agent] [Insurance Producer]	Number of Policies Lapsed by This [Agent] [Insurance Producer]	Number of Lapses as % of Number Sold by This [Agent] [Insurance Producer]

Company Totals

Percentage of Replacement Policies Sold to Total Annual Sales ____%

Percentage of Replacement Policies Sold to Policies In Force (as of the end of the preceding calendar year) ____%

Percentage of Lapsed Policies to Total Annual Sales ____%

Percentage of Lapsed Policies to Policies In Force (as of the end of the preceding calendar year) ____%

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 284-83-210 Definitions. For purposes of WAC 284-83-210 through 284-83-250:

(1) "Actual loss ratio" means a retrospective calculation and calculated as the benefits incurred divided by the "premiums earned," both measured from the beginning of the calculating period to the date of the loss ratio calculations.

(2) "Benefits incurred" means the claims incurred plus any increase (or less any decrease) in the reserves.

(3) "Calculating period" means the time span over which the actuary expects the premium rates, whether level or increasing, to remain adequate in accordance with the actuary's best estimate of future experience and during which the actuary does not expect to request a rate increase.

(4) "Claims incurred" means:

(a) Claims paid during the accounting period; plus
(b) The change in the liability for claims which have been reported but not paid; plus

(c) The change in the liability for claims which have not been reported but which may reasonably be expected.

Claims incurred does not include expenses incurred in processing the claims, home office or field overhead, acquisition and selling costs, taxes or other expenses, contributions to surplus, or profit.

(5) "Expected loss ratio" means a prospective calculation calculated as the projected benefits incurred divided by the projected premiums earned and based on the actuary's best projections of the future experience within the calculating period.

(6) "Overall loss ratio" means the benefits incurred divided by the premiums earned over the entire calculating period; it may involve both retrospective and prospective data.

(7) "Premium" means all sums charged, received or deposited as consideration for a long-term care insurance policy and includes any assessment, membership, contract, survey, inspection, service, or similar fees or charges paid.

(8) "Premiums earned" means the premiums, less experience credits, refunds or dividends, applicable to an accounting period whether received before, during or after such period.

(9) "Reserves" includes:

- (a) Active life disability reserves;
- (b) Additional reserves whether for a specific liability purpose or not;
- (c) Contingency reserves;
- (d) Reserves for select morbidity experience; and
- (e) Increased reserves which may be required by the commissioner.

NEW SECTION

WAC 284-83-220 Grouping of policy forms for purposes of ratemaking and requests for rate increase. (1) The actuary responsible for setting premium rates must group similar policy forms, including forms no longer being marketed, in the pricing calculations.

(a) The grouping must be satisfactory to the commissioner, who may rely on the judgment of the pricing actuary.

(b) Factors that must be considered include similar claims experience, types of benefits, reserves, margins for contingencies, expenses and profit, and equity between policyholders.

(c) A grouping must enhance statistical reliability and improve the likelihood of premium adequacy without introducing elements of discrimination in violation of RCW 48.18.480.

(d) A grouping is not required to include forms issued by health care service contractors or health maintenance organizations before January 1, 1988.

(2) Persons insured under similar policy forms must be grouped at the time of ratemaking in accord with RCW 48.18.480 because they are expected to have substantially like insuring, risk and exposure factors and expense elements.

(a) The morbidity and mortality experience of these insureds, as a group, will deteriorate over time.

(b) A form may not be withdrawn from its assigned grouping by reason only of the deteriorating health of the people insured thereunder, as provided for in RCW 48.83.-170.

(3) One or more of the policy forms grouped for rate-making purposes, by random chance, may experience significantly higher or more frequent claims than the other forms. A form may not deviate from the assigned grouping of policy forms for pricing purposes at the time of requesting a rate increase unless the actuary can justify to the satisfaction of the commissioner that a different grouping is more equitable because of some previously unrecognized and nonrandom distinction between forms or between groups of insureds.

(4) Successive generic policy forms and policy forms of similar benefits covering generations of policyholders must be combined in the calculation of premium rates and loss ratios.

NEW SECTION

WAC 284-83-225 Separation of data regarding certain policies. For reporting and record-keeping purposes, commencing with reports for accounting periods beginning on or after January 1, 2009, all issuers must separate data concerning long-term care insurance policies from data concerning other insurance policies.

NEW SECTION

WAC 284-83-230 Loss ratio requirements for long-term care insurance forms. The following standards and requirements apply to long-term care insurance forms:

(1) Benefits for individual long-term care insurance forms will be deemed reasonable in relation to the premiums if the overall loss ratio is at least sixty percent over a calculating period chosen by the issuer and satisfactory to the commissioner.

(2) Benefits for group long-term care insurance forms will be deemed reasonable in relation to the premiums if the overall loss ratio is at least seventy percent over a calculating

period chosen by the issuer and satisfactory to the commissioner.

(3) The calculating period may vary with the benefit and renewal provisions. The issuer may be required to demonstrate the reasonableness of the calculating period chosen by the actuary responsible for the premium calculations. A brief explanation of the selected calculating period must accompany the filing.

(4) Policy forms, the benefits of which are particularly exposed to the effects of inflation and whose premium income may be particularly vulnerable to an eroding persistency and other similar forces, must use a relatively short calculating period reflecting the uncertainties of estimating the risks involved.

(a) Policy forms based on more dependable statistics may employ a longer calculating period.

(b) The calculating period may be the lifetime of the policy for guaranteed renewable and noncancelable policy forms if these forms provide benefits which are supported by reliable statistics and which are protected from inflationary or eroding forces by such factors as fixed dollar coverages, inside benefit limits, or the inherent nature of the benefits.

(c) The calculating period may be as short as one year for coverages that are based on statistics of minimal reliability or which are highly exposed to inflation.

(5) A request for a rate increase to be effective at the end of the calculating period must include a comparison of the actual to the expected loss ratios, must employ any accumulation of reserves in the determination of rates for the new calculating period, and must account for the maintenance of such reserves for future needs. The request for the rate increase must be further documented by the expected loss ratio for the new calculating period.

(6) A request for a rate increase submitted during the calculating period must include a comparison of the actual to the expected loss ratios, a demonstration of any contributions to and support from the reserves, and must account for the maintenance of such reserves for future needs. If the experience justifies a premium increase, it will be deemed that the calculating period has prematurely been brought to an end. The rate increase must further be documented by the expected loss ratio for the next calculating period.

(7) Issuers must review their experience periodically and file appropriate rate revisions in a timely manner to reduce the necessity of later filing of exceptionally large rate increases.

NEW SECTION

WAC 284-83-240 Experience records. Issuers must maintain records of earned premiums and incurred benefits for each policy year for each contract, rider, endorsement and similar form which is combined for purposes of premium calculations, including the reserves. Records must be maintained of the experience expected in the premium calculations. Notwithstanding the foregoing, with proper justification, the commissioner may accept approximation of policy year experience based on calendar year data.

NEW SECTION

WAC 284-83-245 Evaluating experience data. In determining the credibility and appropriateness of experience data, due consideration will be given by the commissioner to all relevant factors including:

(1) Statistical credibility of premiums and benefits such as low exposure or low loss frequency;

(2) Past and projected trends relative to the kind of coverage, such as inflation in medical expenses, economic cycles affecting disability income experience, inflation in expense charges and others;

(3) The concentration of experience at early policy durations where select morbidity and preliminary term reserves are applicable and where loss ratios are expected to be substantially higher or lower than in later policy durations;

(4) The mix of business by risk classification;

(5) The expected lapses and antiselection at the time of rate increases.

NEW SECTION

WAC 284-83-250 Life insurance policies that accelerate benefits for long-term care. (1) WAC 284-83-210 through 284-83-245 do not apply to life insurance policies that accelerate benefits for long-term care.

(2) A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is considered to provide reasonable benefits in relation to premiums paid, if the policy complies with all of the following provisions:

(a) The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

(b) The portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of chapter 48.76 RCW;

(c) The policy meets the disclosure requirements of RCW 48.83.070(2) and 48.83.080;

(d) Any policy illustration that meets the applicable requirements of the chapter 48.23A RCW; and

(e) An actuarial memorandum is filed with the insurance department that includes:

(i) A description of the basis on which the long-term care rates were determined;

(ii) A description of the basis for the reserves;

(iii) A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(iv) A description and a table of each actuarial assumption used. For expenses, the issuer must include percent of premium dollars per policy and dollars per unit of benefits, if any;

(v) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(vi) The estimated average annual premium per policy and the average issue age;

(vii) A statement as to whether underwriting is performed at the time of application. The statement must indi-

cate whether underwriting is used and, if used, the statement must include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement must indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

(viii) A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status.

NEW SECTION

WAC 284-83-300 Standards for protecting patient privacy rights. Issuers must adopt and use administrative, business, and operational practices and procedures designed to protect an insured's right to privacy granted under chapter 70.02 RCW and federal laws and regulations. For example, issuers must not disclose the insured's health information without the written authorization of the insured, except where the recipient needs to know the information, such as:

(1) To any person, health care provider or health care facility that the issuer reasonably believes is providing health care to the insured;

(2) To any other person who requires health care information to provide planning, quality assurance, peer review, or administrative, legal, financial, billing or actuarial services;

(3) To assist a health care provider or health care facility in the delivery of health care and the issuer reasonably believes that the recipient will not use or disclose the health care information for any purpose other than the delivery of health care and will take appropriate steps to protect the information;

(4) To a health care provider or health care facility reasonably believed to have previously provided health care to the insured to the extent necessary to provide health care services, unless the insured has instructed the health care provider or health care facility in writing not to make the disclosure.

NEW SECTION

WAC 284-83-310 Right of insureds to receive confidential health services. Issuers must adopt and use administrative, business, and operational practices and procedures to protect the insured's right to confidential health care services.

NEW SECTION

WAC 284-83-320 Standards for the issuer's timely review of a claim denial. The following administrative, business, and operational standards must be used by issuers to ensure timely review of a claim denial.

(1) Issuers must have a fully operational, comprehensive claims denial review process.

(2) Issuers must implement procedures for registering and responding to oral and written requests for review of a claim denial in a timely and thorough manner.

(3) Issuers must provide written notice to the insured, to the insured's designated representative, and to the insured's

provider of its decision to deny, modify, reduce, or terminate payment, coverage, authorization, or provision of health care services or benefits, including the admission to or continued stay in a health care facility or any other long-term care services or benefits.

(4) Issuers must process as an appeal an enrollee's written or oral request that the issuer reconsider its decision to deny, modify, reduce, or terminate payment, coverage, authorization, or provision of health care services or benefits, including the admission to, or continued stay in, a health care facility. The issuer must not require that the insured file a complaint prior to seeking appeal of any such decision.

(5) The issuer must:

(a) Provide written notice to the insured when the appeal is received;

(b) Assist the insured with the appeal process;

(c) Make its decision regarding the appeal within thirty days after the date the appeal is received, except when a determination is made that the issuer's action must be expedited;

(d) Cooperate with a representative authorized in writing by the insured;

(e) Consider all information submitted by the insured;

(f) Investigate and resolve the appeal; and

(g) Provide written notice of its resolution of the appeal to the insured and, with the permission of the insured, to the insured's providers, that:

(i) Explains the issuer's decision and the supporting coverage or clinical reasons for the decision; and

(ii) If applicable, explains any further appeal process, including, if applicable, information about how to exercise the insured's rights to a second opinion and how to continue receiving or reinstate services.

(6) An appeal must be expedited if the insured's provider or the insured's medical director reasonably determines that following the appeal process, response timelines could seriously jeopardize the insured's life, health, or ability to regain maximum function. The decision regarding an expedited appeal must be made within seventy-two hours after the time the appeal is received by the issuer.

(7) If the insured requests that the issuer reconsider its decision to modify, reduce, or terminate an otherwise covered health care service, and if the issuer's decision is based on the issuer's determination that the health service or level of health service is no longer covered, the issuer must continue to provide the health service until the appeal is resolved.

(8) Issuers must provide a clear explanation of their grievance processes and procedures at the time of application and upon request of the insured.

(9) Issuers must ensure that their grievance processes and procedures are accessible to insureds who are limited-English speakers, who have literacy problems, or who have physical or mental disabilities that impede their ability to file a grievance.

(10) Issuers must track each appeal until final resolution and, upon request, make available to the commissioner a log of all appeals and grievances.

(11) Issuers must establish a process to identify and track problems encountered by enrollees when filing claims deni-

als and, where appropriate, to make reasonable modifications to their appeals and grievance processes and procedures.

NEW SECTION

WAC 284-83-350 Standard applied if there is a conflict between a master policy and certificate of insurance. If there is a discrepancy between a description of the terms and conditions of insurance between the master policy and any certificate issued under that master policy, the description most favorable to the insured must be used by the issuer and governs the matter.

WSR 08-24-023

PERMANENT RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2008-19—Filed November 24, 2008, 9:48 a.m., effective December 25, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These new rules bring WAC 284-23-600 through 284-23-730 into compliance with the provisions of chapter 48.83 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-23-645; and amending WAC 284-23-610, 284-23-620, 284-23-650, and 284-23-730.

Statutory Authority for Adoption: RCW 48.02.060, 48.83.070, 48.83.110, 48.83.120, 48.83.130(1), and 48.83.-140 (4)(a).

Adopted under notice filed as WSR 08-17-101 on August 20, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 1.

Date Adopted: November 24, 2008.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 96-13, filed 2/6/98, effective 3/9/98)

WAC 284-23-610 Authority, finding, purpose, and scope. (1) The purpose of this regulation, WAC 284-23-600 through 284-23-730, is to define certain minimum standards for the regulation of accelerated benefit provisions of individ-

ual and group life insurance policies, a single violation of which will be deemed to constitute an unfair claims settlement practice. The commissioner finds and hereby defines it to be an unfair act or practice and an unfair method of competition for any insurer to provide accelerated benefits except as provided in this regulation.

(2) The commissioner finds that accelerated benefits in life insurance policies are primarily mortality risks rather than morbidity risks. The commissioner further finds that accelerated benefits are optional modes of settlement of proceeds under life insurance proceeds under RCW 48.11.020. No qualifying event as defined under WAC 284-23-620(3) changes the nature of the underlying life insurance policy. No accelerated benefits provision shall be called or marketed as long-term care as defined under RCW ((48.84.020(1))) 48.83.020(5).

(3) This regulation applies to all accelerated benefit provisions of individual and group life insurance policies and riders which are issued or delivered to a resident of this state, on or after the effective date of this regulation. The regulation applies to both policies and riders. It also applies to solicitations for the sale of accelerated benefits, whether in the form of policies or riders.

(4) This regulation does not require inclusion or offering of any accelerated benefit in a life insurance policy. This regulation regulates those accelerated benefits which individual and group life insurers choose to advertise, offer, or market on or after the effective date of this regulation.

AMENDATORY SECTION (Amending Matter No. R 96-13, filed 2/6/98, effective 3/9/98)

WAC 284-23-620 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this regulation.

(1) "Accelerated benefits" means benefits payable under an individual or group life insurance policy. They are primarily mortality risks, rather than morbidity risks. Accelerated benefits may also mean optional modes of settlement of proceeds under life insurance policies. Accelerated benefits are benefits:

(a) Payable to either the policyholder of an individual life policy or to the certificate holder of a group life policy, during the lifetime of the insured, in anticipation of death, or upon the occurrence of certain specified life-threatening, terminal, or catastrophic conditions defined by the policy or rider as described in subsection (3) of this section; and

(b) Which reduce or eliminate the death benefit otherwise payable under the life insurance policy or rider; and

(c) Which are payable upon the occurrence of a single qualifying event which results in the payment of a benefit amount fixed at the time the accelerated benefit is paid.

(2) "Qualified actuary" means a person who is a qualified actuary as defined in WAC 284-05-060.

(3) "Qualifying event" means one or more of the following:

(a) A medical condition which a physician has certified is reasonably expected to result in death twenty-four months or less after the date of certification;

(b) A medical condition which has required or requires extraordinary medical intervention; for example, major organ transplants or the use of continuous life support, without which the insured would die;

(c) Any condition which usually requires continuous confinement in any eligible institution as defined in the policy or rider, if the insured is expected to remain there for the rest of his or her life;

(d) Any medical condition which, in the absence of extensive or extraordinary medical treatment, would result in a drastically limited life span of the insured. Such medical conditions may include, for example:

(i) Coronary artery disease resulting in an acute infarction or requiring surgery;

(ii) Permanent neurological deficit resulting from cerebral vascular accident;

(iii) End stage renal failure;

(iv) Acquired immune deficiency syndrome; or

(v) Other medical conditions which the insurance commissioner approves for any particular filing;

(e) Any condition which requires either community-based care or institutional care((; or

~~(f) A medical condition that results in an insured being certified by a licensed health care practitioner as chronically ill by meeting either or both of the following standards within the preceding twelve month period:~~

~~(i) The insured is expected to be unable to perform (without substantial assistance from another individual) at least two activities of daily living without a deficiency for a period of at least ninety days due to a loss of functional capacity; or~~

~~(ii) The insured requires substantial supervision to protect himself or herself from threats to health and safety due to severe cognitive impairment).~~

(4) "Community based care" means services including, but not limited to: (a) Home delivered nursing services or therapy; (b) custodial or personal care; (c) day care; (d) home and chore aid services; (e) nutritional services, both in-home and in a communal dining setting; (f) respite care; (g) adult day health care services; or (h) other similar services furnished in a home-like or residential setting that does not provide overnight care. Such services shall be provided at any level of care.

(5) "Institutional care" means care provided in a hospital, nursing home, or other facility certified or licensed by the state primarily affording diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services. Such a facility provides twenty-four-hour nursing services on its premises or in facilities available to the institution on a formal prearranged basis.

~~((6) "Activities of daily living" on which an insurer intends to rely as a measure of functional incapacity shall be defined in the policy, and shall include all of the following:~~

~~(a) Bathing: The ability of the insured to wash himself or herself either in the tub or shower or by sponge bath, including the task of getting into or out of a tub or shower.~~

~~(b) Continence: The ability of the insured to control bowel and bladder functions; or in the event of incontinence, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).~~

(e) ~~Dressing: The ability of the insured to put on and take off all items of clothing, and necessary braces, fasteners, or artificial limbs.~~

(d) ~~Eating: The ability of the insured to feed himself or herself by getting food and drink from a receptacle (such as a plate, cup, or table) into the body.~~

(e) ~~Toileting: The ability of the insured to get to and from the toilet, get on and off the toilet, and perform associated personal hygiene.~~

(f) ~~Transferring: The ability of the insured to move in and out of a chair, bed, or wheelchair.~~

(7) "Licensed health care practitioner" means any physician, any registered professional nurse, or registered social worker.

(8) "Substantial assistance" means:

(a) "Hands-on assistance" — the physical assistance of another person without which the insured would be unable to perform the activity of daily living; and

(b) "Standby assistance" — the physical presence of another person within arm's reach of the insured that is necessary to prevent, by physical intervention, injury to the insured while the insured is performing the activity of daily living.

(9) "Severe cognitive impairment" means a loss or deterioration in intellectual capacity that is:

(a) Comparable to (and includes) Alzheimer's disease and similar forms of irreversible dementia; and

(b) Measured by clinical evidence and standardized tests that reliably measure impairment in the insured's (i) short-term or long-term memory, (ii) orientation as to people, places, or time, and (iii) deductive or abstract reasoning.

(10) "Substantial supervision" means continual supervision (which may include cuing by verbal prompting, gestures, or other demonstrations) by another person that is necessary to protect the insured from threats to his or her health or safety.))

AMENDATORY SECTION (Amending Matter No. R 96-13, filed 2/6/98, effective 3/9/98)

WAC 284-23-650 Disclosure statement. (1) The words "accelerated benefit" must be included in the required title of every life insurance policy or rider that includes a provision for accelerated benefits. Accelerated benefits shall not be described, advertised, marketed, or sold as either long-term care insurance or as providing long-term care benefits.

(2) Possible tax consequences and possible consequences on eligibility for receipt of Medicare, Medicaid, Social Security, Supplemental Security Income (SSI), or other sources of public funding shall be included in every disclosure statement.

(a) The disclosure form shall include a disclosure statement. The disclosure statement shall be prominently displayed on the first page of the policy, rider, or certificate. The disclosure statement shall contain substantially the following: "If you receive payment of accelerated benefits from a life insurance policy, you may lose your right to receive certain public funds, such as Medicare, Medicaid, Social Security, Supplemental Security, Supplemental Security Income (SSI), and possibly others. Also, receiving accelerated benefits from a life insurance policy may have tax consequences

for you. We cannot give you advice about this. You may wish to obtain advice from a tax professional or an attorney before you decide to receive accelerated benefits from a life insurance policy."

(b)((i) The disclosure statement shall state whether or not the accelerated life is intended to qualify under section 101(g) (26 U.S.C. 101(g)) or section 7702B (26 U.S.C. 7702 B) of the Internal Revenue Code of 1986 as amended by Public Law 104-191.

((ii) If the accelerated life insurance benefit is intended to comply with section 7702B,)) The disclosure statement must begin with the following statement: "This accelerated life benefit does not and is not intended to qualify as long-term care under Washington state law. ((It may not provide all of the benefits or meet all of the standards required of long term care under Washington law and regulations.)) Washington state law prevents this accelerated life benefit from being marketed or sold as long-term care. ((For the purposes of federal tax law only, it is intended to be a 'qualified long-term care product.'))

(c) The disclosure form must be provided (i) to the applicant for an individual or group life insurance policy at the time application is made for the policy or rider; and (ii)(A) to the individual insured at the time the owner of an individual life insurance policy submits a request for payment of the accelerated benefit, and before the accelerated benefit is paid, or (B) to the individual certificateholder at the time an individual certificateholder of a group life insurance policy submits a request for payment of the accelerated benefit, and before the accelerated benefit is paid. It is not sufficient to provide this required disclosure statement only to the holder of a group policy.

(3) The disclosure form shall give a brief and clear description of the accelerated benefit. It shall define all qualifying events which can trigger payment of the accelerated benefit. It shall also describe any effect of payment of accelerated benefits upon the policy's cash value, accumulation account, death benefit, premium, policy loans, and policy liens.

(a) In the case of ((agent solicited)) insurance solicited by an insurance producer, the ((agent)) insurance producer shall provide the disclosure form to the applicant before or at the time the application is signed. Written acknowledgement of receipt of the disclosure statement shall be signed by the applicant and the ((agent)) insurance producer.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the disclosure form to the applicant at the time the policy is delivered, with a written notice that a full premium refund shall be made if the policy is returned to the insurer within the free look period.

(c) In the case of group life insurance policies, the disclosure form shall be contained in the certificate of coverage, and may be contained in any other related document furnished by the insurer to the certificateholder.

(4) If there is a premium or cost of insurance charge for the accelerated benefit, the insurer shall give the applicant a generic illustration numerically demonstrating any effect of the payment of an accelerated benefit upon the policy's cash value, accumulation account, death benefit, premium, policy loans, or policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the illustration to the applicant either before or at the time the application is signed.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the illustration to the applicant concurrently with delivery of the policy to the applicant.

(c) In the case of group life insurance policies, the disclosure form shall be included in the certificate of insurance or any related document furnished by the insurer to the certificateholder.

(5)(a) Insurers with financing options other than as described in WAC 284-23-690 (1)(b) and (c) of this regulation, shall disclose to the policyowner any premium or cost of insurance charge for the accelerated benefit. Insurers shall make a reasonable effort to assure that the certificateholder on a group policy is made aware of any premium or cost of insurance charge for the accelerated benefits, if he or she is required to pay all or any part of such a premium or cost of insurance charge.

(b) Insurers shall furnish an actuarial demonstration to the Insurance Commissioner when filing an individual or group life insurance policy or rider form that provides accelerated benefits, showing the method used to calculate the cost for the accelerated benefit.

(6) Insurers shall disclose to the policyholder any administrative expense charge. The insurer shall make a reasonable effort to assure that the certificateholder on a group policy is made aware of any administrative expense charge if he or she is required to pay all or any part of any such charge.

(7) When the owner of an individual policy or the certificateholder of a group policy requests payment of an accelerated benefit, within 20 days of receiving the request the insurer shall send a statement to that person, and to any irrevocable beneficiary, showing any effect that payment of an accelerated benefit will have on the policy's cash value, accumulation account, death benefit, premium, policy loans, and policy liens. This statement shall disclose that receipt of accelerated benefit payments may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements. When the insurer pays the accelerated benefit, it shall issue an amended schedule page to the owner of an individual policy, or to the certificateholder of a group policy, showing any new, reduced in-force amount of the policy. When more than one payment of accelerated benefit is permitted under the policy or rider, the insurer shall send a revised statement to the owner of an individual policy, or to the certificateholder of a group policy, when a previous statement has become invalid due to payment of accelerated benefits.

AMENDATORY SECTION (Amending Matter No. R 96-13, filed 2/6/98, effective 3/9/98)

WAC 284-23-730 Resolution of disputes regarding occurrence of qualifying events. In the event the insured's health care provider and a health care provider appointed by the insurer disagree on whether a qualifying event has occurred, the opinion of the health care provider appointed by the insurer is not binding on the claimant. The parties shall attempt to resolve the matter promptly and amicably. The

policy or rider providing the accelerated benefit shall provide that in case the disagreement is not so resolved, the claimant has the right to mediation or binding arbitration conducted by a disinterested third party who has no ongoing relationship with either party. ((Any such arbitration shall be conducted in accordance with chapter 7.04 RCW.)) As part of the final decision, the arbitrator or mediator shall award the costs of arbitration to one party or the other or may divide the costs equally or otherwise.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-23-645

Tax qualified accelerated benefit provisions.

WSR 08-24-026 PERMANENT RULES WASHINGTON STATE UNIVERSITY

[Filed November 24, 2008, 10:50 a.m., effective December 25, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The university's facilities use rules are being updated to accommodate the multicampus system, changes in laws, and changes in the university's administrative structure.

Citation of Existing Rules Affected by this Order: Repealing WAC 504-32-010, 504-32-060, 504-34-010, 504-34-020, 504-34-030, 504-34-040, 504-34-050, 504-34-070, 504-34-080, 504-34-090, 504-34-100, 504-34-110 and 504-34-120; and amending WAC 504-28-030 rename chapter 504-34 WAC and rename and amend WAC 504-34-140 and 504-36-020; and new chapters 504-33 and 504-35 WAC.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 08-19-105 on September 17, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 20, Amended 3, Repealed 13.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 20, Amended 3, Repealed 13.

Number of Sections Adopted Using Negotiated Rule Making: New 20, Amended 3, Repealed 13; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 21, 2008.

Ralph T. Jenks, Director
Procedures, Records, and Forms
and University Rules Coordinator

AMENDATORY SECTION (Amending WSR 95-07-046, filed 3/8/95, effective 4/8/95)

WAC 504-28-030 Scheduling of events. (1) Facilities. ((Recognized student groups schedule facilities by contacting the appropriate campus departments. The activities/recreational sports office will assist groups in determining whom to contact.)

(a) To schedule rooms in the Wilson Compton Union (CUB), contact CUB scheduling. That office will determine if a special events form needs to be completed. Forms are available in the activities/recreational sports office, CUB 337.

(b) For scheduling of departmental, faculty and student events for conferences and conventions involving people from off-campus, contact the office of university relations.

(c) To schedule classrooms on campus, contact the registrar's office (French Administration Building).

(d) To schedule use of the coliseum, contact performing arts coliseum, coliseum director's office.

(e) To schedule gym facilities for use from 8:00 a.m. to 5:00 p.m. Monday through Friday, contact kinesiology, leisure studies department. Scheduling of gym facilities for use after 5:00 p.m. and on weekends is handled through the activities/recreational sports office in CUB 337.

(f) To schedule Bryan Auditorium, contact the registrar's office.

(g) To schedule R.R. Jones Theatre and Daggy Little Theatre, contact Daggy Hall, Room 251.

(h) For use of special services, contact physical plant. For use of lecterns, lighting, P.A. set ups and janitorial services, fill out the form "Request for services for special events," available at the physical plant and activities/recreational sports office. This form must be authorized at the activities/recreational sports office before turning it into physical plant.

(i) For scheduling of the Terrell Mall or library plaza, see WAC 504-32-010.

(j) Individuals and nonuniversity groups must first contact the director of the CUB to schedule rooms in the CUB, the Terrell Mall, and the Library Plaza. Any other use by individuals and nonuniversity groups must be approved by the facilities use committee.

(k) Time scheduling recommendations. Most buildings and facilities on campus close by midnight. Groups wishing their events to extend past this time should make arrangements with the appropriate scheduling office.

(l) Special scheduling information.

(a) The activities/recreational sports office staff is available to advise on appropriate forms, arrangements, publicity, etc.

(b) Any recognized student organization may sponsor political speakers on campus. All such groups should follow the normal procedure in scheduling.

(c) ASWSU may run concerts on a speculative basis. All other recognized student organizations may have concerts only if they have sufficient funds to back all concert expenses 100%. The activities/recreational sports office staff is available to advise on concert arrangements and contract negotiations.)) Student governments and registered student organizations may schedule facilities by contacting the approving

authority in accordance with WAC 504-35-022. The department responsible for overseeing student government and registered student organizations on each campus (currently, the office of campus involvement on the Pullman campus) is available to assist groups in determining whom to contact to make arrangements.

The list of approving authorities for the most frequently used buildings at the Pullman campus is available in the office of business and finance. The list for all campuses is available on-line at <http://www.campus.wsu.edu/>.

(2) Special scheduling information.

(a) Staff of the department responsible for overseeing student governments and registered student organizations on each campus are available to advise those groups on the use of appropriate forms, making event arrangements, publicity for events, and related matters.

(b) Any student government or registered student organization may sponsor political speakers on campus in accordance with WAC 504-35-030(3). For the purpose of this rule, a political speaker is a candidate who has filed for public office as well as an individual who is speaking in support of or in opposition to a ballot proposition.

(c) Student governments may run concerts on a speculative basis. Registered student organizations will be allowed to use campus facilities for concerts only if they have sufficient funds to pay one hundred percent of all concert expenses for events. Staff of the department responsible for overseeing student governments and registered student organizations on each campus are available to provide assistance on their respective campuses.

(d) Committee meetings and social activities should be scheduled in facilities which are accessible to disabled ((individuals)) persons.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 504-32-010	Rules for use of the mall.
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WAC 504-32-060	Outdoor dances, concerts, carnivals and fairs.
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Chapter 504-33 WAC**FACILITY USE RULES FOR FIRST AMENDMENT/FREE SPEECH ACTIVITIES****NEW SECTION**

WAC 504-33-010 Title. This chapter is known as the Washington State University facility use rules for first amendment/free speech activities.

NEW SECTION

WAC 504-33-015 Definitions. (1) "Nonuniversity group," for the purposes of this policy, means a collection of individuals that is neither a university affiliate, a registered student organization, nor a recognized employee group. The

term also includes the individual members of these groups, when acting on behalf of the group, and individuals who are not currently enrolled students, current university employees, or employees of a university affiliate.

(2) "University group," for purposes of this policy, means registered student organizations as defined in WAC 504-28-010, or a recognized employee group of the university, and also encompasses the individual members of these groups when acting on behalf of the group. The term also includes individuals who are currently enrolled students or current employees.

(3) "University affiliates" or "affiliated entities" means those entities that have formal relationships with the university and also encompass those entities' officers, agents, and employees. The terms include, but are not limited to, the university foundation, the university research foundation, the office of the attorney general, the 4-H foundation, and the United States Department of Agriculture—Agricultural Research Service. A list of affiliated entities is available on the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

(4) "Limited public forum areas" means those areas of each campus that the university has chosen to be open as places for expressive activities protected by the first amendment, subject to reasonable time, place or manner restrictions.

(a) At the Pullman campus, the designated limited public forum areas are:

- (i) The Glenn Terrell Mall; and
- (ii) The public sidewalks adjacent to public roads.

(b) At the Spokane campus, the designated limited public forum areas are:

(i) The patio outside the main entrance to the Phase I Classroom Building; and

- (ii) The public sidewalks adjacent to public roads.

(c) At the Tri-Cities campus, the designated limited public forum areas are:

- (i) The Atrium Courtyard; and
- (ii) The public sidewalks adjacent to public roads.

(d) At the Vancouver campus, the designated limited public forum areas are:

(i) The area of campus plaza directly east of the cafeteria extending to the stone wall; and

- (ii) The public sidewalks adjacent to public roads.

(e) In addition to the public forum areas identified herein, the chancellors of the Spokane, Tri-Cities, and Vancouver campuses and the university president may designate additional areas of the campuses under their authority as public forums. Such additional public forum areas shall be set forth in the university's business policies and procedures manual.

(5) "First amendment activities" include, but are not necessarily limited to, informational picketing, petition circulation, the distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments and/or other types of constitutionally protected assemblies to share information, perspective or viewpoints.

NEW SECTION

WAC 504-33-020 Use of limited public forum areas—Purpose. Freedom of expression is a highly valued and indispensable quality of university life, and the university desires to allow its students and employees the opportunity to utilize the facilities and grounds of the university to the fullest extent possible. The university commitment to this ideal does not, however, grant to individuals or groups an unlimited license to engage in activity which limits, interferes with, or otherwise disrupts the normal activities for and to which the university's buildings, facilities and grounds are dedicated. The purpose of these time, place, and manner regulations is to establish procedures and reasonable controls for the use of the university's limited public forum areas by both nonuniversity and university groups. It is intended to balance the university's responsibility to fulfill its mission as a state educational institution of Washington with the interests of nonuniversity groups or university groups who are interested in using the campus for purposes of constitutionally protected speech, assembly, or expression.

NEW SECTION

WAC 504-33-025 Use of limited public forum facilities. Subject to the regulations and requirements of this policy, university and nonuniversity groups may use the university's limited public forum areas for those activities protected by the first amendment.

(1) Notice to use the limited public forum areas is to be provided as follows:

(a) At the Pullman campus:

- (i) To the campus police; and

(ii) For requests to use the Glenn Terrell Mall, to the scheduling office.

(b) At the Spokane campus:

- (i) To the campus office of student affairs; and

(ii) To the campus security office.

(c) At the Tri-Cities campus:

- (i) To the campus office of student affairs; and

(ii) To the campus security office.

(d) At the Vancouver campus:

- (i) To the campus office of business affairs; and

(ii) To the campus security office.

(2) Timing of notice. All groups must provide the required notice no later than fourteen calendar days in advance of use of the limited public forum. However, events may be permitted with less notice so long as the event does not interfere with any other function occurring at the facility.

(3) Content of notice. The notice to use the public forum areas is to contain:

(a) The name, address, and telephone number of the individual, group, entity, or organization sponsoring the event or use (hereinafter "the sponsoring organization"); and

(b) The name, address, and telephone number of a contact person for the sponsoring organization; and

(c) The date, time, and requested location of the event; and

(d) The nature and purpose of the event; and

(e) The estimated number of people expected to participate in the event.

(4) Sound amplification. The use of sound amplification devices for free speech purposes is not allowed.

(5) Duration of events. In order to allow for the expression of a wide range of viewpoints and discussion of an array of issues, university group events may not last longer than eight hours per day, and may continue no longer than five days from beginning to end. Nonuniversity events and university affiliate events may not last longer than five hours per day and may continue over no more than three days, from beginning to end. These limitations upon the duration of events will be excused, on a day-to-day basis, upon request when there are no competing requests to use the facility.

(6) Distribution of materials. Signs, posters, literature, handbills, leaflets, and pamphlets may be distributed in accordance with WAC 504-34-140. The sponsoring organization is encouraged, but not required, to include its name and address on the distributed information.

(7) Commercial transactions. Speech that does no more than propose a commercial transaction is prohibited in connection with the use of the facility or event.

(8) The limited public forum used by the group must be cleaned up and left in its original condition and may be subject to inspection by a representative of the university after the event. Reasonable charges may be assessed against the sponsoring organization for the costs of cleanup or for the repair of damaged property.

(9) The use of the facility must comply with all requirements of WAC 504-35-030.

(10) The university and/or government authorities may specify additional fire, safety, sanitation, and special regulations for the event, and the user must obey those regulations.

(11) The university will not provide utility connections or hook-ups.

NEW SECTION

WAC 504-33-030 Additional requirements for scheduling at times of university authorized or sponsored events. (1) The limited public forum may not be used on the same date as any previously scheduled university event or activity at the site (aside from regularly scheduled classes) where it is reasonably anticipated that more than five hundred people will attend the university event or activity.

(2) Where more than five hundred people are expected to attend an event in Martin Stadium or Beasley Coliseum, or on the days of any football or basketball game, the following restrictions apply:

(a) The sidewalks adjacent to Martin Stadium may not be used for the three-hour period preceding a football game or other event at Martin Stadium until two hours after the game or event has ended, except that sidewalks opposite the stadium may continue to be used for first amendment activities during these time periods, so long as the activities do not unduly interfere with the flow of pedestrian or vehicular traffic. Where the free speech activity is expected to draw a crowd of more than fifty people, the Glenn Terrell Mall may not be used during these time periods.

(b) The sidewalks adjacent to Beasley Coliseum may not be used for the two-hour period preceding a game or other event at Beasley Coliseum until two hours after the game or

event has ended, except that sidewalks opposite the coliseum may continue to be used for first amendment activities during these time periods, so long as the activities do not unduly interfere with the flow of pedestrian or vehicular traffic.

NEW SECTION

WAC 504-33-040 Grant and termination of license to use facilities. The university president or designee; any university vice-president; the chancellors of the Spokane, Tri-Cities, or Vancouver campuses or designees; or the designee of the vice-president for business and finance may authorize first amendment activities which are reasonably determined not to disrupt university activities, despite a literal violation of this policy statement. Such determinations will be made without consideration of the content or message of the first amendment activities.

The university president or designee; any university vice-president; the chancellors of the Spokane, Tri-Cities, or Vancouver campuses or designees; or the designee of the vice-president for business and finance may, at any time, terminate, cancel or prohibit the use of facilities if the event is disrupting normal university functions. Any of these individuals may refuse to allow a proposed use of facilities if they determine, after reasonable inquiry, that the use or event cannot be conducted without disrupting normal university functions. Such determinations will be made without consideration of the content or message of the first amendment activities.

NEW SECTION

WAC 504-33-050 Posting of a bond and hold harmless statement. When using university facilities, an individual or organization may be required to post a bond and/or obtain insurance to protect the university against cost or other liability.

When the university grants permission to use its facilities it is with the express understanding and condition that the individual or organization assumes full responsibility for any loss or damage resulting from that use.

NEW SECTION

WAC 504-33-060 Criminal trespass. Any person believed to be violating these regulations may be barred from campus in accordance with the procedures outlined in WAC 504-35-150.

Chapter 504-34 WAC

WASHINGTON STATE UNIVERSITY (~~FACILITY USE~~) POSTING AND LITERATURE DISTRIBUTION REGULATIONS

AMENDATORY SECTION (Amending WSR 95-07-047, filed 3/8/95, effective 4/8/95)

WAC 504-34-140 ((Advertising policies.)) Signs, posters, handbills, and flyers. ((The following policies apply to all advertising done on campus.))

(1) Signs and posters.

(a) All advertising in the CUB must have approval from the activities/recreational sports office.

(b) All advertising announcements to be posted in other campus buildings should be confined to general bulletin boards. For use of other bulletin boards contact the appropriate department or residence hall for approval.

(c) No advertising should be taped to walls or other interior surfaces.

(d) All outdoor advertising is restricted to bulletin boards, the kiosks, and the west entrance of the CUB. Signs put up at the west entrance of the CUB should be approved in the activities/recreational sports office. The size is limited to twelve square feet.

(e) University related banners may be displayed on the overhead walkways after securing permission from the activities/recreational sports office. They must be constructed of fabric, with air vents, and attached to the structure with rope or twine—tape and wire are not permitted.

(f) Free-standing signs may be placed on campus grounds and the mall with the approval of the director of physical plant.

(g) No signs, handbills, or stickers are to be placed on trees or buildings other than the two places mentioned above. Paint or chalk must not be used on sidewalks or buildings.

(h) Before exhibits or displays are placed on the mall, notification must be made to the disabled student services office.

(i) It is the responsibility of the group to remove advertising within twenty four hours after the event.

(2) Literature, handbills and notices.

(a) Literature, handbills and notices may be distributed at any reasonable outdoor area on campus consistent with the orderly conduct of university affairs, the maintenance of university property, and the free flow of traffic and persons. Efforts must be made to avoid litter. Individuals or groups distributing are responsible for leaving the area clean, including all discarded handbills. Distribution by means of aecosting individuals or by hawking is prohibited.

(3) Public address system.

(a) Requests for public address systems require the signature of the faculty advisor.

(b) Systems are available through the instructional media services.

(e) Use of systems:

(i) Time of use: Monday through Thursday, 5:00 p.m. to 7:00 p.m.; and on Saturday 12:00 noon to 7:00 p.m. (Exceptions may be made by the union board.)

(ii) Discreet and considerate use of public address systems in the vicinity of the hospital is expected.

(iii) Public address systems on moving vehicles must have a police permit.

(4) Athletic events. All advertising at athletic events must be cleared through the office of intercollegiate athletics.

(5) Advertising for student government. Advertising for student government elections shall be according to the rules established by the ASWSU election board.

(6) Advertising at registration must be approved by the registrar.) The following rules apply to all users, except for the university itself.

(1) Signs, posters, placards, banners, handbills, flyers, announcements, and similar materials may be placed:

(a) Indoors:

(i) On bulletin boards that have been designated "general use" bulletin boards by the university. All other bulletin boards are reserved to the use of the university department that manages them, and only information related to university recognized or sponsored activities, college, or department may be posted thereon.

(ii) Bulletin boards that have been designated as general use will contain notice of that designation, together with the note as to who, if anyone, must be contacted in order to post on the board. That individual may date stamp the material, but will not deny a request to post based upon the content of the message.

(b) Outdoors:

(i) On bulletin boards designated for general use;

(ii) At the kiosks at the Pullman campus designated for general use; and

(iii) Free-standing displays may be placed on free speech areas of each campus, if the user has received the written approval of the chief administrator designated at that campus prior to posting, who may deny or defer a request to a later date based upon competing uses of the requested space, but will not deny a request based upon content. Such chief administrator is identified on the campus use committee web site. The web site is found by accessing the WSU web site at: <http://www.wsu.edu/>.

(c) The overhead walkways that cross streets at the Pullman campus may be used by the university and students, including student government organizations and registered student organizations to display banners that promote a university event or an approved event sponsored by student government or a registered student organization, if the user has received the written approval of the scheduling office prior to posting, and if the banners are constructed of durable, weather-proof material, have air vents and metal grommets, and are attached to the structure with approved cable ties. Tape, rope, and/or wire are not permitted.

(2) Signs, posters, placards, banners, handbills, flyers, announcements, and similar materials may not:

(a) Be placed on, taped, glued, or otherwise affixed to walls, windows, furniture, or any interior surfaces;

(b) Be placed on, taped, glued, or otherwise affixed to trees;

(c) Be placed on, taped, glued, or otherwise affixed to a building exterior;

(d) Be placed on, taped, glued, or otherwise affixed to walkways, floors, or sidewalks; or

(e) Be placed on, taped, glued, or otherwise affixed to vehicles while located on university owned or controlled grounds, with the exception of official university notices distributed with the approval of the department of parking services.

(3) Neither paint, chalk, nor other marker may be used on any walkway, sidewalk, floor, or on any portion of a building.

(4) The individual or group posting the sign, poster, placard, banner, handbill, flyer, announcement, or similar material must:

(a) Ensure that any document posted on a general use bulletin board or kiosk is no larger than eleven inches by seventeen inches;

(b) Not post material so that it covers other postings;

(c) Remove the material and related fasteners;

(i) Within two weeks of posting; or

(ii) Within twenty-four hours of the end of the event promoted on the material, whichever is shorter, provided that continuing service signs may be redated/stamped and reposted; and

(d) Obtain a date stamp, where required by the university department/unit responsible for a bulletin board, or clearly write the date of posting on the material.

(5) Removal of materials by university. The university retains the right to remove the following:

(a) Material that does not contain the posting date.

(b) Material that is not removed within two weeks of posting or within twenty-four hours of the end of the event, whichever is shorter.

(c) Material on bulletin boards or kiosks that exceeds the size limitations.

(d) Material that is posted so that it covers other documents.

(6) Before exhibits or displays are placed on the Glenn Terrell Mall, notification must be made to the disability resource center.

(7) Literature, handbills, flyers, pamphlets, and notices.

(a) Literature, handbills, flyers, pamphlets, notices, and similar materials may be distributed to individuals in any of the university's limited public forum areas consistent with the orderly conduct of university affairs, the maintenance of university property, and the free flow of vehicular and pedestrian traffic.

(b) Efforts must be made to avoid litter when distributing these materials.

(c) Materials may not be placed on or affixed to vehicles located on university owned or controlled grounds.

(d) Individuals or groups distributing are responsible for leaving the area clean, including picking up all discarded materials and placing them in the trash.

(e) Distribution by means of accosting, confronting, detaining, or waylaying individuals or by hawking is prohibited. Distribution by means of offering materials to passers-by who indicate a willingness to accept them is allowed.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 504-34-010 Purpose and delegation.

WAC 504-34-020 Definitions.

WAC 504-34-030 Limitations.

WAC 504-34-040 Users.

WAC 504-34-050 Private or commercial enterprise.

WAC 504-34-070 Outdoor dances and concerts.

WAC 504-34-080

Parades.

WAC 504-34-090

Carnivals and fairs.

WAC 504-34-100

Other requests.

WAC 504-34-110

Building hours.

WAC 504-34-120

Administrative control.

Chapter 504-35 WAC

FACILITY USE RULES FOR OTHER THAN FIRST AMENDMENT/FREE SPEECH ACTIVITIES

NEW SECTION

WAC 504-35-005 Title. This chapter is known as Washington State University facility use rules for other than first amendment/free speech activities.

NEW SECTION

WAC 504-35-010 Use of university facilities—General policy and purpose. Washington State University is an educational institution provided and maintained by the people of the state of Washington in order to carry out its broad missions of teaching, research, and public service. A state agency is under no obligation to make its public facilities available to the community for private purposes, and the university generally reserves its facilities, buildings, and grounds for its mission-related activities, including: Instruction, research, public assembly, student activities, and recreational activities related to education. However, the university makes facilities available for a variety of uses which are of benefit to the general public under the conditions set forth in these regulations if such general uses substantially relate to, and do not interfere with, university missions.

The purpose of these regulations is to establish procedures and reasonable controls for the use of university facilities by individuals and entities other than the university itself, including university employees, students, and registered student organizations, as well as individuals and groups that are not related to or affiliated with the university.

In reviewing conflicting requests to use university facilities, primary consideration is given to activities specifically related to the university's mission. Additionally, no use will be allowed that may interfere with, or operate to the detriment of, the university's own teaching or public service programs. Additionally, reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and to ensure the proper maintenance of the facilities.

NEW SECTION

WAC 504-35-015 First amendment/free speech activities not covered. Use of university facilities for first amendment/free speech activities is governed by the rules set forth in chapter 504-33 WAC. This chapter does not apply to those individuals or groups using university facilities for first amendment activities.

NEW SECTION

WAC 504-35-020 Definitions and powers. (1) "Affiliated entities" or "university affiliates" means those entities that have formal relationships with the university and also encompass those entities' officers, agents, and employees. Affiliated entities include, but are not limited to, the university research foundation, the university foundation, the 4-H foundation, the office of the attorney general, and the United States Department of Agriculture—Agricultural Research Service. A list of affiliated entities is available on the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

(2) "Approving authority" means a university employee who has authority, consistent with these regulations and with the procedures established by the campus use committee, to review, approve, or deny individual requests for use of facilities.

(a) The university maintains a list of the approving authorities for those facilities that are most frequently used on a short-term basis by individuals and groups. That list is available from the office of business and finance at the Pullman campus, 442 French Administration Building, or by going on-line to the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

(b) The approving authority for all long-term uses of facilities is the vice-president for business and finance, the university president, or designee.

(3) A "ballot proposition" means any measure, initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or of any municipal corporation, political subdivision, or other voting constituency from the time that proposition has been filed with the appropriate election officer of the constituency.

(4) The "campus use committee" is the group that is charged with establishing procedures for review of requests to use university facilities at the Pullman campus; to establish, within the framework of these regulations, procedures governing use of facilities throughout the university system; to review rental schedules where appropriate, and to review individual requests for use where such requests are not reviewed by another university unit or department under these rules. Review of requests to use facilities at the Vancouver, Spokane, and Tri-Cities campuses will be reviewed by the campus use committees for those campuses.

(5) "Campus use committee—Vancouver," "campus use committee—Tri-Cities," and "campus use committee—Spokane" mean the groups responsible to review individual requests for use of university facilities operated under the oversight of the Vancouver, Tri-Cities and Spokane campuses where such requests are not reviewed by another university unit or department under these rules.

(6) A "candidate forum" means a forum where all registered candidates for a potential elected seat are invited to speak regarding their candidacy and position on issues.

(7) "First amendment activities" include, but are not necessarily limited to, informational picketing, petition circulation, the distribution of information leaflets or pamphlets, speech-making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group

feelings or sentiments, and/or other types of constitutionally protected assemblies to share information, perspectives, or viewpoints.

(8) An "issue forum" means a forum where supporters and opponents of a ballot proposition are invited to speak on their positions regarding the ballot proposition.

(9) "Limited public forum areas" means those areas of each campus that the university has chosen to be open as places for expressive activities protected by the first amendment ("first amendment activities"), subject to reasonable time, place, or manner restrictions. The use of limited public forum areas for first amendment activities is governed by chapter 504-33 WAC. The provisions of this chapter govern the use of limited public forum areas for nonfirst amendment activities, such as student sponsored concerts or dances. Limited public forum areas are identified in WAC 504-33-015.

(10) "Long-term use" means the use of a university facility for a period of longer than five consecutive business days in any thirty calendar-day period or the use of a university facility for a period that will exceed ten days in any thirty calendar-day period.

(11) A "measure" means any question or proposition submitted to voters.

(12) "Nonuniversity group," for the purposes of this policy, means a collection of individuals that is neither a university affiliate, a registered student organization, nor a recognized employee group. The term also includes the individual members of these groups when acting on behalf of the group, and individuals who are not currently enrolled students, current university employees, or employees of a university affiliate.

(13) "Registered student organization" means a student group or association that has officially signed up with the university pursuant to WAC 504-28-010.

(14) "Short-term use" means a use of a university facility on a daily or hourly basis, not to exceed five consecutive calendar days, or ten calendar days in any thirty calendar-day period. Approving authorities may enter agreements authorizing sporadic use of facilities under their control for periods of up to one year, if the approving authority utilizes the template approved by the office of business and finance for such agreements and if the authorized use will not exceed ten days in any thirty calendar-day period.

(15) "University group," for purposes of this policy, means a registered student organization or a recognized employee group (an employee group created to further professional development of its members or the mission of the university) of the university, and also encompasses the individual members of these groups when acting on behalf of the group. The term also includes individuals who are currently enrolled students or current employees.

(16) "University facilities" means all buildings and grounds owned or controlled by the university and the streets, sidewalks, malls, parking lots, and roadways within the boundaries of property owned or controlled by the university.

(17) "Use of facilities" includes the holding of any event or forum, the posting of signs, all forms of advertising, commercial solicitation or the conduct of other commercial activities, the distribution of pamphlets or similar written materi-

als, and the charitable solicitation or the conduct of other charitable activities on or using university facilities.

NEW SECTION

WAC 504-35-022 Requests for use of facilities for other than first amendment activities. (1) Requests for short-term use of university facilities must be directed to the approving authority who has authority to consummate rental agreements consistent with the rental rates established by the university, these facility regulations, and any guidelines developed by the campus use committee, including the requirement that the approving authority use university approved facilities use templates. A list of the individuals having authority to approve requests for short-term uses of identified university facilities is available in the university office of business and finance at the Pullman campus or by going on-line to the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

(2) Requests for long-term use of university facilities must be directed to the vice-president for business and finance, the university president, or designee.

(3) If a requestor is uncertain where to direct a request to use a particular facility, or if the approving authority for a particular facility is not on the university list, he or she should address his or her request to the campus use committee or to the vice-president for business and finance or designee.

NEW SECTION

WAC 504-35-024 Scheduling and reservation practices for other than first amendment activities—Duties of requestor. (1) The primary purpose of university facilities is to serve the university's instructional, research, and public service activities. However, facilities when not required for scheduled university use, may be available for rental by the public in accordance with current fee schedules and other relevant terms and conditions for such use.

(2) No university facilities may be used by individuals or groups unless the facilities, including buildings, equipment, and land, have been reserved.

(3) Requests to use university facilities are made to the approving authority, as defined in WAC 504-35-020(2) and in accordance with WAC 504-35-022.

(4) The approving authority may deny the request to use university facilities where he or she determines that such use would violate any of the limitations set forth in WAC 504-35-030 or where the requestor is unwilling to comply with university requirements for the use of facilities, as authorized by these rules.

(5) The university may require an individual or organization to make an advance deposit, post a bond and/or obtain insurance to protect the university against cost or other liability as a condition to allowing use of any university facility.

(6) When the university grants permission to an individual or organization to use its facilities it is with the understanding and on the condition that the individual or organization assumes full responsibility for any loss or damage resulting from such use and agrees to hold harmless and indemnify

the university against any loss or damage claim arising out of such use.

(7) The university and/or government authorities may specify fire, safety, sanitation, and special regulations for the event. It is the responsibility of the user to obey those regulations, as well as to comply with other applicable university policies, procedures, rules, regulations, and state, local, and federal laws.

(8) When the university grants permission to an individual or organization to use its facilities it is with the understanding and on the condition that the individual or organization is responsible to clean the facility and leave it in its original condition at the conclusion of its use or event. The facility may be subject to inspection by a representative of the university after the event. Reasonable charges may be assessed against the sponsoring organization for the costs of extraordinary cleanup or for the repair of damaged property.

NEW SECTION

WAC 504-35-026 Facility rental/use fees. (1) The university assesses fees based upon the actual cost, direct and indirect, of using a university facility. Fees for the short-term use of most facilities are set forth on a schedule available in the office of business and finance at the Pullman campus or by going on-line to the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>. The university reserves the right to make changes to fees without prior written notice, except that such fee changes do not apply to facility use agreements already approved by the university.

(2) In the event that the fee for the use of a particular facility has not been placed on the schedule, and if the university determines to allow the use of the facility, the university will assess a fee based upon the full cost, direct and indirect, of using the facility.

(3) Fees for the long-term use of facilities are individually negotiated between the requestor and the office of business and finance, with the fee charged reflecting the full costs of the use, as offset by any resulting university benefit.

(4) Student government organizations and registered student organizations may be allowed to use space in many university facilities at no charge or at a reduced rate. The fees charged to student government and registered student organizations for facilities are available in the university office of business and finance at the Pullman campus or by going on-line to the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

NEW SECTION

WAC 504-35-030 Limitations on use. The following limitations apply to all uses of any university facilities:

(1) University facilities may not be used in ways which obstruct vehicular, bicycle, pedestrian, or other traffic or otherwise interfere with ingress or egress to the university, any university building or facility, or that obstruct or disrupt educational activities or other lawful activities on university grounds, university controlled facilities, or at university sponsored events.

(2) University facilities may not be used in ways that interfere with educational, research, or public service activities inside or outside any university building or otherwise prevent the university from fulfilling its missions and achieving its primary purposes.

(3) University facilities may not be used for the purpose of campaigning regarding a ballot proposition or by, for, or against candidates who have filed for public office, except that:

(a) University departments, student government organizations, or registered student organizations may sponsor candidate forums as well as issue forums regarding ballot propositions;

(b) Candidates for office and proponents or opponents of ballot propositions may rent university facilities on a short-term basis for campaign purposes to the same extent and on the same basis as may other individuals or groups;

(c) Candidates for office and proponents or opponents of ballot propositions may use the limited public forum areas using the procedures of chapter 504-33 WAC to the same extent and on the same basis as may other individuals or groups; and

(d) A registered student organization may invite a candidate or another political speaker to one of the meetings of its membership on university property, if it has complied with the scheduling procedures of WAC 504-35-024.

(4) University facilities may not be used in ways that create safety hazards or pose unreasonable safety risks to students, employees, or invitees.

(5) University facilities may not be used for commercial purposes, including: Advertising, commercial solicitation, sales, or other activities to promote a product, except as allowed under WAC 504-35-050.

(6) University facilities may not be used in furtherance of or in connection with illegal activity.

(7) University facilities may not be used in such manner as to create a hazard or result in damage to university facilities.

(8) University facilities may not be used where such use would create undue stress on university resources (e.g., a request for a major event may be denied if another major event is already scheduled for the same time period, because of demands for parking, security coverage, etc.); except that the use of limited public forum areas for a first amendment activity may not be halted simply because the event may require additional university security or police costs.

(9) Advance permission by the approving authority is required to use audio amplifying equipment. Use of audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of university affairs.

(10) Alcoholic beverages may be served only as allowed under university policies. It is the responsibility of the event sponsor to obtain all necessary licenses from the Washington state liquor control board and adhere to their regulations, as well as all local ordinances, university rules, and regulations.

(11) No person may erect a tent or other shelter on university facilities or remain overnight on university facilities, including in a vehicle, trailer, tent, or other shelter, with the following exceptions:

(a) The use and occupancy of university housing in accordance with chapter 504-24 WAC;

(b) The use of facilities by a university employee or agent who remains overnight to fulfill the responsibilities of his or her position;

(c) The use of facilities by a university student who remains overnight to fulfill the responsibilities of his or her course of study;

(d) The use of facilities where overnight stays are specifically permitted in identified locations for attendees at special events designated by the university, such as staying in the RV lots during home football games, commencement, and special weekends.

(12) Signs and posters and visual displays may be placed only at those locations authorized under, and in accordance with the restrictions of WAC 504-34-140.

(13) Handbills, leaflets, pamphlets, flyers, and similar materials may be distributed only in accordance with WAC 504-34-140.

(14) Animals are not allowed in or on university facilities, except in accordance with WAC 504-36-020.

(15) Smoking is not allowed in or on university facilities, except in accordance with chapter 70.160 RCW.

(16) Mopeds, Segweys, skateboards, roller skates, roller blades, bicycles, and similar personal transportation devices may be used on campus only as allowed by WAC 504-14-250, 504-14-930, 504-15-250, 504-15-930, 504-19-250, and 504-19-930.

NEW SECTION

WAC 504-35-050 Private or commercial enterprise or charitable use. (1) University facilities may not be used for private or commercial gain, including: Commercial advertising; solicitation and merchandising of any food, goods, wares, service, or merchandise of any nature whatsoever; or any other form of sales or promotional activity; except that commercial activity is allowable:

(a) If the campus use committee has determined that the commercial activity or use will serve an educational or public service purpose related to the university's mission;

(b) By special permission granted by the university president, or designee, if an agreement, lease, or other formal arrangement is entered into between the university and the person, corporation, or other entity desiring to engage in commercial activity;

(c) To the extent it represents the regular advertising, promotional, or sponsorship activities carried on, by, or in any university media, *The Daily Evergreen*, or at NCAA athletic events;

(d) In designated areas of each residence hall when related to the university's mission and approved by the university president, the vice-president for student affairs, or such other person as may be designated by the university president; and

(e) If the university purchasing department has authorized vendor representatives to solicit university departments, colleges, or business units, and where those representatives have appropriate university identification.

(2) University facilities may not be used by faculty or staff in connection with compensated outside service, with the following exceptions:

(a) Faculty or staff may use university facilities that are generally available to the public on the same basis, including payment of the same fees, as may other private citizens; and

(b) Faculty may make private use of facilities to encourage basic and applied research in accordance with the provisions of the university policy adopted pursuant to RCW 42.52.220.

(3) University facilities may not be used to benefit a charitable organization, with the following exceptions:

(a) Charities that are licensed in the state of Washington may use university facilities that are generally available to the public on the same basis, including payment of the same fees, as may private citizens;

(b) Charities that are licensed in the state of Washington may use facilities without charge by special permission granted by the university president, or designee, or the vice-president for business and finance where the university has determined that the charitable activity or use will serve an educational or public service purpose related to the university's mission and an agreement, lease, or other formal arrangement is entered into between the university and the person, corporation, or other entity desiring to engage in a charitable event; and

(c) Student government organizations, registered student organizations, and university units that have followed university policies and procedures to conduct fund-raising activities and have adhered to all scheduling requirements and other university policies.

NEW SECTION

WAC 504-35-070 Outdoor dances, concerts, carnivals and fairs. Street dances, outdoor concerts, carnivals, or fairs may be held at approved locations when sponsored by student governments or registered student organizations on days and at times approved by the office delegated oversight responsibility for student government organizations and registered student organizations on each campus, following consultation with appropriate university departments.

NEW SECTION

WAC 504-35-080 Parades. Permits for parades on university streets and roads on the Pullman campus may be obtained upon approval of the university chief of police. Permits for parades on university streets and roads at the Vancouver, Spokane, and Tri-Cities campuses may be obtained upon the approval of the person identified by the university, as set forth on the list of approving authorities available from the office of business and finance at the Pullman campus or by going on-line to the campus use committee web site. The web site can be found by accessing the university's web site at: <http://www.wsu.edu/>.

Parades must be scheduled so as not to interfere with rush-hour traffic or with university events or activities.

NEW SECTION

WAC 504-35-150 Administrative control—Trespass.

Individuals who violate these regulations will be advised of the specific nature of violation. If they persist in the violation, they may be directed by a university official, university public safety or security officer, or any other public safety officer acting under the authority of a mutual aid agreement, to leave the university property. Such a direction withdraws the license or privilege to enter onto or remain upon an identified portion of, or all, university facilities by the individual told to leave. Persons who fail to heed the direction to leave university facilities, or who enter onto such facilities in violation of such direction, may be arrested under the provisions of chapter 9A.52 RCW. If the no trespass order is given for only one portion of campus for only a single day, the decision is not subject to appeal.

Individuals directed to leave university facilities for more than a single day may appeal that decision by submitting to the vice-president for business and finance, or such other person as the university president may designate, by certified mail, return receipt requested, a letter stating the reasons the person should not be barred from university facilities. The vice-president for business and finance, or the person who has been designated by the university president, shall respond in writing within fifteen calendar days with a final decision of the university. Persons will continue to be barred from university property while their appeal is pending.

University students, faculty, and staff may only be ejected pursuant to this protocol where the duration of the ejection is for no more than a single day or where the ejection applies to a portion of university property that the student or employee does not need to access to perform his or her studies or work (e.g., a student may be ejected, using this protocol, from Martin Stadium during a football game or from Beasley Coliseum during an event).

Students, faculty, and staff who do not comply with these regulations will be reported to the appropriate university office or agency for action in accordance with established university policies. Such action may include a decision to permanently bar them from entering onto, or remaining upon, all or a portion of the university facilities. The authority to bar students from all or a portion of campus under this section is separate from, and in addition to, the authority of student conduct officers or conduct boards to bar students as a disciplinary sanction.

AMENDATORY SECTION (Amending Order 77-2, filed 8/3/77)

WAC 504-36-020 Control of ((pets)) animals. (1) ((Pets)) Animals are not permitted in university buildings, except in facilities that are the site of university-authorized events, such as stock shows, horse shows, parades, or demonstrations at sporting events, where the animals are participants in said events, or as allowed by university housing policies.

(2) ((Pets)) Livestock and horses are not permitted on university property ((unless under immediate control of their owner)), except as allowed in subsection (3)(e) of this section. Other animals are not permitted on university property

unless under immediate control of their keeper, except as otherwise allowed under this rule. "Keeper" includes an owner, handler, trainer, or any person responsible for the control of an animal. "Under control" means the restraint of an animal by means of a leash or other device that physically restrains the animal to the keeper's immediate proximity. An animal which is otherwise securely confined while in or upon any motor vehicle, including a trailer, is deemed to be under control.

(3) ((Pullman Ordinance B-292 is in effect on the Washington State University campus. Thus, pets that are picked up will be impounded at the city dog pound.)) The requirement that animals be under immediate control of their keeper does not apply to:

(a) A dog being exercised in any area designated by the university as leash optional;

(b) A dog undergoing training at a certified dog obedience class on the university campus and authorized by the dean of the college of veterinary medicine, the vice-president for business and finance, the president, or the president's designee;

(c) A dog while being exhibited in an organized dog show on university property;

(d) A dog trained to aid law enforcement officers while being used for law enforcement purposes or during demonstrations to illustrate the dog's capabilities; and

(e) An animal participating in a university-authorized event, such as a stock show, horse show, parade, extension or outreach event, or demonstrations at a sporting, teaching, or agricultural event.

(4) Any stray dog or other animal that is running loose on university property is subject to impound by local authorities in accordance with the municipal or county ordinances that apply to each campus.

(5) The keeper of any animal must remove for disposal any fecal matter deposited by the animal on university premises before the keeper leaves the area where the matter was deposited. This requirement does not apply to an individual who, by reason of disability, is unable to comply, or to individuals bringing animals to university-authorized events where arrangements have been made for the removal of fecal matter.

(6) This section does not apply to animals owned by the university or under its care, custody, and/or control.

(7) Subsection (1) of this section does not apply to trained guide dogs or service animals that are being used by persons with disability.

(8) The vice-president for business and finance, the president, the chancellor of a branch campus, or such other person as the president may designate, will waive subsection (1) of this section for guide dogs in training or service animals in training, provided that such animals are present on campus with trainers or handlers who have a demonstrated history of training such animals.

WSR 08-24-027

PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed November 24, 2008, 10:51 a.m., effective December 25, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: New rules to address cost savings for course materials. State law requires that the state universities adopt rules that encourage cost savings for student course materials.

Citation of Existing Rules Affected by this Order: New chapter 504-43 WAC (includes new sections WAC 504-43-010, 504-43-020, and 504-43-030).

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 08-20-134 on October 1, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 3, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 21, 2008.

Ralph T. Jenks, Director
Procedures, Records, and Forms
and University Rules Coordinator

Chapter 504-43 WAC

COURSE MATERIALS

NEW SECTION

WAC 504-43-010 Purpose. The purpose of this chapter is to give students more choices for purchasing educational materials and to encourage faculty and staff to work closely with bookstores and publishers to implement the least costly option without sacrificing educational content.

NEW SECTION

WAC 504-43-020 Definitions. For the purposes of this chapter, the following words and phrases mean:

"Course materials." Any supplies or texts required or recommended by faculty or staff for a given course. Course materials may include, but are not limited to, texts, workbooks, study guides, CD-ROMs, art supplies, and other ancillary materials.

"Bundle." A group of course materials joined together by packaging or required to be purchased as an indivisible unit.

NEW SECTION

WAC 504-43-030 Providing cost savings to students for course materials. (1) The affiliated bookstores for Washington State University (WSU) are incorporated as the students book corporation. The students book corporation is responsible for the following:

- (a) Providing students the option of purchasing course materials that are unbundled whenever possible;
- (b) Disclosing to faculty and students the retail costs of textbooks on a per book and per course basis and making such information publicly available;
- (c) Disclosing publicly, when such information is available, how new editions vary from previous editions; and
- (d) Actively promoting and publicizing book buy-back programs.

(2) To provide cost savings to students for course materials, WSU faculty and staff members are encouraged to:

- (a) Consider adopting the least expensive edition of course materials available when educational content is comparable;
- (b) Work closely with publishers and the students book corporation to create bundles and packages if they provide a cost savings to students.

**WSR 08-24-029
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed November 24, 2008, 12:35 p.m., effective December 25, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 392-122-221 defines the enrollment exclusions for an institution student. The intent of this WAC change is to clearly identify the priority of counting a student who is in the institution on the institution count date as well as in their regular school district on the school district's count date. This change helps to ensure that students are not double counted for enrollment purposes.

Citation of Existing Rules Affected by this Order: Amending WAC 392-122-221.

Statutory Authority for Adoption: RCW 28A.150.290.

Adopted under notice filed as WSR 08-20-091 on September 29, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 24, 2008.

Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 01-24-002, filed 11/21/01, effective 12/22/01)

WAC 392-122-221 Definition—State institutional education program—Enrollment exclusions. The following may not be counted as an enrolled institutional education program student:

- (1) A person whose educational activity has terminated.
- (2) A person who has transferred to another institution or school district.
- (3) An institution student who:
 - (a) Has not engaged in educational activity in the past five school days, excluding days of excused absence;
 - (b) Has not engaged in educational activity in the past ten school days including days of excused absence; or
 - (c) Is claimed by any school district as an enrolled student eligible for state basic education support pursuant to chapter 392-121 WAC where the school district's count date occurs prior to the institution's count date for the month.

When the institution's count date and the school district's count date are on the same date, institutions shall have priority for counting the student.

**WSR 08-24-030
PERMANENT RULES
WASHINGTON STATE PATROL**

[Filed November 24, 2008, 12:47 p.m., effective December 25, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To update current language of the chapter and include references to the federal standards.

Citation of Existing Rules Affected by this Order: Repealing WAC 204-24-060 and chapter 204-22 WAC; and amending WAC 204-24-020, 204-24-030, 204-24-040, 204-24-050, and 204-24-070.

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.420.

Adopted under notice filed as WSR 08-19-077 on September 16, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 5, Repealed 6.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 7, 2008.

Chief John R. Batiste
Chief

NEW SECTION

WAC 204-24-005 Promulgation. By authority of RCW 46.37.005 and 46.37.420, the Washington state patrol adopts the following standards for tire chains and traction tires.

NEW SECTION

WAC 204-24-010 Scope. These standards apply to tire chains and traction tires designed for and used upon a public roadway.

NEW SECTION

WAC 204-24-015 Definitions. (1) "All wheel drive" means a vehicle which has four-wheel drive capability and may be driven with all wheels in gear.

(2) "Cable laid rope" means a compound laid rope consisting of several ropes or several layers of strands laid together into one rope.

(3) "Cable tire chains" means any ladder-type cable tire chain assemblies designed for use on tires that have been manufactured in accordance with the standards of the Tire & Rim Association, Inc.; 3200 West Market Street; Akron, Ohio 44313.

(4) "Cross cable fastener" means any suitable fastener used to attach each cross cable to the side cable. The fastener must be constructed and assembled to prevent accidental detachment.

(5) "Cross cable traction reinforcement sleeves" means a device that is constructed of the manufacturer's specified material and of suitable length and width to maximize traction, braking, cornering and longevity.

(6) "Fastener" means any suitable connecting device, secured to one end of a side cable constructed so that it can connect to the opposing end and be easily closed (engaged or fastened) and be readily opened (released) by hand.

(7) "Link tire chains" means tire chains which consist of at least two chain loops, one on each side of the tire, connected by evenly spaced metal cross chains across the tire tread.

(8) "Reinforced cross cables" means stranded cable wrapped or covered to provide increased resistance to abrasive wear. This covering may be either a hard drawn spring wire, a high-carbon steel wire or nylon type 6 or 12. The wrapped or covered cable must be enclosed by traction reinforcement sleeves covering said cable essentially from side connector to side connector. Cross cable must be of specified length and provide proper drape over the tire tread.

(9) "Side cable" means stranded cable to complete one full circumference along the tire sidewall.

AMENDATORY SECTION (Amending Order 82-07-01, filed 7/29/82)

WAC 204-24-020 Standards for tire chains. ((~~Standards for tire chains shall be as set forth in chapter 204-22 WAC.~~) (1) Link tire chains must meet the National Association of Chain Manufacturers Tire Chain Specifications NACM-5179(TC).

(2) Cable tire chains must be designed for use on tires mounted in accordance with specifications in Society of Automotive Engineers (SAE) Recommended Practice J1232, Class S, and SAE Informational Report J683a. Oversized tires, snow tires, special service, or special traction tires, etc., may require chains of a larger size.

(a) **Classifications.** Cable tire chains described in this specification must be of the following types as specified for regular and restricted clearances:

- (i) Passenger car;
- (ii) Single light truck;
- (iii) Heavy truck;
- (iv) Special police and emergency vehicle.

(b) **Requirements:**

(i) **Components.** Cable tire chain assemblies must consist of two side cables, or two outer and one inner side cable, with reinforced cross cables, cross cable fastener, and fasteners necessary to form a complete assembly.

(ii) **Material.**

(A) Stranded side and stranded cross cable wire must be constructed of preformed galvanized high-carbon steel with a minimum of 450 pounds breaking strength with seven wires per strand and seven strands per cable. The lay must be a right hand lay.

(B) Wire covering stranded cable must be constructed of high-carbon plow steel wire with a minimum tensile strength of 230,000 pounds per square inch.

(C) Spring wire covering stranded cable must be constructed of harddrawn spring wire with a minimum tensile strength of 200,000 pounds per square inch.

(D) Cables, spring, and plow wire must be manufactured in conformance to SAE Recommended Practice J113.

(E) Cross cable fasteners must be constructed of open hearth, electric furnace, or basic oxygen process steel.

(F) Metallic cross cable traction reinforcement sleeves must be constructed of open hearth, electric furnace, or basic oxygen process steel and shall comply with the following American Society for Testing Materials (ASTM) standards: Standard E6 - Bend Test, Standard E8 - Tension Test, Standard E18 - Test Methods for Rockwell Hardness, and Standard A568 - Table of Chemical Content of Steel.

(G) Nonmetallic cross cable traction reinforcement sleeves shall be constructed of "Zytel" ST-801 nylon or its equivalent.

(H) All side cable fasteners are to be constructed of material that will allow easy installation and removal.

(ii) **Spacing of cross cable.** The first cross cable must be attached to that point of each side cable nearest the fastener that will permit the fastener to lie in the proper plane when the assembled cable tire chain is applied to the tire. On single cable tire chains, the remainder of the cross cables must be attached to the side cable at intervals designed to provide for at least one cross cable in contact with the roadway at all

times. On dual-triple tire chains, the remainder of the cross cable shall be attached to the outer side cables at like intervals and to the inner side chain with opposing cross cables staggered at the same intervals.

(iv) Tolerances.

(A) Cross cable length. The inside length of all cross cable, including fasteners held in the same plane, must be within a tolerance of minus 1/8 inch to plus 1/8 inch of the specified length indicated by the chain manufacturer's specifications. The length shall be measured by hanging the cross cable vertically on a horizontal pin and measuring the inside to inside length. The number of traction reinforcement sleeves in a cross cable may not vary from the number specified by the manufacturer.

(B) Side cable length. The length of all side cables must be within tolerance of minus 1/8 inch to plus 1/2 inch of the length indicated by the chain manufacturer's specifications.

(C) Stranded cable size. Stranded cable size must be subject to the following tolerances:

(I) Material up to and including .094 inch (2.4 mm) diameter shall not be less than the designated diameter and shall not exceed .010 inch (.25 mm) over the specified diameter.

(II) Material over .094 inch (2.4 mm) diameter shall not be less than the specified diameter and shall not exceed .014 inch (.36 mm) over the specified diameter.

(D) Component dimensions. The dimensions of manufactured components may vary, but the assembled cable chains must meet the tolerances specified in (b)(iv)(A), (B), and (C) of this subsection.

(E) Finish. All cable tire chains must have a rust-resistant finish for protection in transit and storage.

(F) Identification. Each half set of cable tire chains must be permanently marked with the manufacturing company's name, initials or trademark in order that it may be easily identified when not in the original container.

AMENDATORY SECTION (Amending WSR 02-19-055, filed 9/12/02, effective 10/13/02)

WAC 204-24-030 Standards for studded tires. Studded tires ((shall)) must meet the following specifications:

(1) Studs ((shall)) must be metal, tipped with tungsten carbide.

(2) Metal studs ((shall)) must be inserted only in a new tire or a newly-recapped tire which has molded in the tread the "pin-holes" into which metal studs are to be inserted. Studs ((shall)) must not be inserted in any new tire or newly-recapped tire after it has been driven on a vehicle.

(3) Metal studs may be installed only by the tire manufacturer, or by a tire dealer or tire jobber who shall install the metal studs in conformance with the manufacturer's specifications.

(4) When a tire is sold or offered for sale as a studded tire or when studs are installed in a new tire or a newly-recapped tire, there ((shall)) must be a minimum of seventy metal studs evenly spaced around the tread of the tire.

(5) A tire ((shall)) must contain a minimum of fifty-six metal studs at all times in order to qualify as a "studded tire" or as an approved traction device.

(6) Metal studs ((shall)) must not be installed in any tire of a vehicle which has a gross vehicle weight of ten thousand pounds or over.

(7) School buses and fire department equipment tires are exempt from subsection (6) of this section.

AMENDATORY SECTION (Amending WSR 92-05-016, filed 2/10/92, effective 3/12/92)

WAC 204-24-040 Traction devices. The following equipment items are approved by the state patrol for use as traction devices wherever traction devices are required by the department of transportation:

(1) Tire chains meeting the standards in ((chapter 204-22)) WAC 204-24-020.

(2) Studded tires meeting the standards in WAC 204-24-030.

(3) Approved traction tires. An approved traction tire ((shall)) must have the following tread characteristics:

(a) A minimum of 4/32 inch tread, measured in the center portion of the tire at three locations equally spaced around the circumference of the tire.

(b) A relatively aggressive tread pattern designed primarily to provide additional starting, stopping, and driving traction on snow or ice. The tread ((shall)) must have ribs, lugs, blocks or buttons the edges of which are at an angle greater than thirty degrees to the tire circumferential centerline.

(c) On at least one side of the tread design, the shoulder lugs protrude at least 1/2-inch in a direction generally perpendicular to the direction of travel.

(d) Tires manufactured to meet these specifications ((shall)) must:

(i) Be permanently labeled on at least one sidewall with the words "mud and snow" or any contraction using the letters "M" and "S" (e.g. MS, M/S, M-S, M & S, etc.).

((4) Special tires specifically designed to improve stopping, traction, and cornering abilities of the tire on ice or snow may be approved by the state patrol as an approved traction device.)) (ii) Be permanently labeled on at least one side wall with the mountain/snowflake symbol.

AMENDATORY SECTION (Amending WSR 02-19-055, filed 9/12/02, effective 10/13/02)

WAC 204-24-050 Use of tire chains or other traction devices. (1) Vehicles under 10,000 pounds gross vehicle weight.

When traffic control signs are posted by the department of transportation it ((shall)) will be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires the traction device specified by the sign, which must also meet the requirements of WAC 204-24-040.

Exception for all wheel drive vehicles. When "chains required" signs are posted, all-wheel drive vehicles ((shall)) will be exempt from the chain requirement when all wheels are in gear and are equipped with approved traction devices as specified in WAC 204-24-040 provided that tire chains for at least one set of drive tires are carried in the vehicle.

(2) Vehicles or combinations of vehicles over 10,000 pounds gross vehicle weight rating (GVWR).

When traffic control signs marked "chains required" are posted by the department of transportation it ((shall)) will be unlawful for any vehicle or combination of vehicles to enter the controlled area without having mounted on its tires, tire chains as follows: Provided, That highway maintenance vehicles operated by the department of transportation for the purpose of snow removal and its ancillary functions are exempt from the following requirements if such vehicle has sanding capability in front of the drive tires.

(a) Vehicles or vehicle combinations with two to four axles including but not limited to trucks, truck-tractors, buses and school buses: For vehicles with a single drive axle, one tire on each side of the drive axle ((shall)) must be chained. For vehicles with dual drive axles, one tire on each side of one of the drive axles ((shall)) must be chained. For vehicle combinations including trailers or semi-trailers; one tire on the last axle of the last trailer or semi-trailer, ((shall)) must be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(b) Automobile transporters are any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) highway vehicles. For vehicles with single drive axles, one tire on each side of the drive axle ((shall)) must be chained. For vehicles with dual drive axles, one tire on each side of each of the drive axles ((shall)) must be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer ((shall)) must be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(c) Vehicle combinations with five axles consisting of a truck tractor with dual drive axles and a tandem axled semi-trailer; all tires on one drive axle may be chained or one tire on each side of each of the drive axles may be chained. Chains must be applied to a minimum of four tires on the drive axles. On the tandem axle semi-trailer, the chained tire may be on either of the last two axles.

(d) Vehicle combinations with five axles, consisting of a truck and trailer, or truck tractor and semi-trailer with a single drive axle, or truck tractor, semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle ((shall)) must be chained. For vehicles with dual drive axles, all tires on one of the drive axles ((shall)) must be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer ((shall)) must be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(e) Vehicle combinations with six or more axles, including but not limited to truck and trailer or truck tractor and semi-trailer or truck tractor semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle ((shall)) must be chained. For vehicles with dual drive axles where traffic control signs marked "approved traction tires required" are posted, all tires on one of the drive axles ((shall)) must be chained. For vehicles with dual drive axles where traffic control signs marked "chains required" are posted, all tires on one of the drive axles ((shall)) must be chained. In addition, one tire on each side of the additional drive axle ((shall)) must be chained. For vehicle combina-

tions including trailers or semi-trailers, one tire on the last axle ((shall)) must be chained. For vehicles with tandem axle trailers or semi-trailers, the chained tire may be on either of the last two axles.

(f) All vehicles over 10,000 pounds gross vehicle weight rating (GVWR) ((shall)) must carry a minimum of two extra chains for use in the event that road conditions require the use of more chains or in the event that chains in use are broken or otherwise made useless.

(g) Approved chains for vehicles over 10,000 pounds gross vehicle weight rating (GVWR) ((shall)) must have at least two side chains to which are attached sufficient cross chains of hardened metal so that at least one cross chain is in contact with the road surface at all times. Plastic chains ((shall)) will not be allowed. ((The state patrol may approve other devices as chains if the devices are equivalent to regular chains in performance.))

(h) On the following routes all vehicles and combinations of vehicles over 10,000 gross vehicle weight rating (GVWR) pounds ((shall)) must carry sufficient tire chains to meet the requirements of this chapter from November 1 to April 1 of each year or at other times when chains are required for such vehicles:

(i) I-90 - between North Bend (MP 32) and Ellensburg (MP 101).

(ii) SR-97 - between (MP 145) and Junction SR-2.

(iii) SR-2 - between Dryden (MP 108) and Index (MP 36).

(iv) SR-12 - between Packwood (MP 135) and Naches (MP 187).

(v) SR-97 - between the Columbia River (MP 0.00) and Toppenish (MP 59.00).

(vi) SR-410 - from Enumclaw to Naches.

(vii) SR-20 - between Tonasket (MP 262) and Kettle Falls (MP 342); and SR-20 between Newhalem (MP 120) and Winthrop (MP 192).

(viii) SR-155 - between Omak (MP 79) and Nespelem (MP 45).

(ix) SR-970 - between (MP 0) and (MP 10).

(x) SR-14 - between Gibbons Creek (MP 18.00) and (MP 108.40) intersection of Cliffs Road.

(xi) SR-542 - Mt. Baker highway between (MP 22.91) and (MP 57.26).

(xii) I-82 - between Ellensburg Exit 3 (MP 3.00) and Selah Exit 26 (MP 26.00).

Vehicles making local deliveries as indicated on bills of lading and not crossing the mountain pass are exempt from this requirement if operating outside of a chain required area.

(3) The Washington state department of transportation or Washington state patrol may prohibit any vehicle from entering a chain/approved traction device control area when it is determined that the vehicle will experience difficulty in safely traveling the area.

AMENDATORY SECTION (Amending WSR 92-05-016, filed 2/10/92, effective 3/12/92)

WAC 204-24-070 Approval of tire chains or traction devices. (1) Any tire chain, wheel chains, studded tires, or other traction devices meeting the standards in this chapter

((204-22 WAC, WAC 204-24-030, and 204-24-040 shall)) or certified under one of the following:

(a) Conformance to Federal Motor Vehicle Safety Standards, or, if none,

(b) Conformance to current standards and specifications of the Society of Automotive Engineers, or, if none,

(c) Certified for compliance by any recognized organization or agency such as, but not limited to, the American National Standards Institute, or the American Association of Motor Vehicle Administrators.

will be considered as an approved type chain, studded tire, or other traction device by the state patrol.

(2) Links to the Code of Federal Regulations are available on the Washington state patrol web site at www.wsp.wa.gov. Copies of the CFR may also be ordered through the United States Government Printing Office, 732 N. Capitol Street, N.W., Washington, D.C. 20401. Copies of the SAE standards are available for review at the Washington State Patrol, 210 11th Avenue, Olympia, WA 98504, and may also be ordered from the Society of Automotive Engineers International, 400 Commonwealth Drive, Warrendale, PA 15096.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 204-24-060

Period of use.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 204-22-010

Promulgation.

WAC 204-22-020

Scope.

WAC 204-22-030

Link tire chains.

WAC 204-22-040

Cable tire chains.

WAC 204-22-050

Other tire chain devices.

WSR 08-24-047 PERMANENT RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed November 25, 2008, 1:53 p.m., effective December 26, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules are being adopted to correct incorrect references in the rules. WAC 296-20-01002 and 296-20-03001 incorrectly refer to the attendant care rule as WAC 296-20-303. These references will be amended to the correct citation WAC 296-23-246. WAC 296-20-025 incorrectly refers to a rule that no longer exists and the reference will be changed to RCW 51.48.060. WAC 296-20-097 refers to the reopening application with an incorrect form number. The correct form number is F242-079-000.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-01002, 296-20-025, 296-20-03001, and 296-20-097.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030.

Other Authority: Title 51 RCW.

Adopted under notice filed as WSR 08-19-072 on September 16, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: November 25, 2008.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 08-04-095, filed 2/5/08, effective 2/22/08)

WAC 296-20-01002 Definitions. Accepted condition: Determination by a qualified representative of the department or self-insurer that reimbursement for the diagnosis and curative or rehabilitative treatment of a claimant's medical condition is the responsibility of the department or self-insurer. The condition being accepted must be specified by one or more diagnosis codes from the current edition of the International Classification of Diseases, Clinically Modified (ICD-CM).

Appointing authority: For the evidence-based prescription drug program of the participating agencies in the state purchased health care programs, appointing authority shall mean the following persons acting jointly: The administrator of the health care authority, the secretary of the department of social and health services, and the director of the department of labor and industries.

Attendant care: Those proper and necessary personal care services provided to maintain the worker in his or her residence. Refer to WAC ((296-20-303)) 296-23-246 for more information.

Attending provider report: This type of report may also be referred to as a "60 day" or "special" report. The following information must be included in this type of report. Also, additional information may be requested by the department as needed.

(1) The condition(s) diagnosed including ICD-9-CM codes and the objective and subjective findings.

(2) Their relationship, if any, to the industrial injury or exposure.

(3) Outline of proposed treatment program, its length, components, and expected prognosis including an estimate of when treatment should be concluded and condition(s) stable. An estimated return to work date should be included. The probability, if any, of permanent partial disability resulting from industrial conditions should be noted.

(4) If the worker has not returned to work, the attending doctor should indicate whether a vocational assessment will be necessary to evaluate the worker's ability to return to work and why.

(5) If the worker has not returned to work, a doctor's estimate of physical capacities should be included with the report. If further information regarding physical capacities is needed or required, a performance-based physical capacities evaluation can be requested. Performance-based physical capacities evaluations should be conducted by a licensed occupational therapist or a licensed physical therapist. Performance-based physical capacities evaluations may also be conducted by other qualified professionals who provided performance-based physical capacities evaluations to the department prior to May 20, 1987, and who have received written approval to continue supplying this service based on formal department review of their qualifications.

Attending provider: For these rules, means a person licensed to independently practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; naturopathic physician; podiatry; dentistry; optometry; and advanced registered nurse practitioner. An attending provider actively treats an injured or ill worker.

Authorization: Notification by a qualified representative of the department or self-insurer that specific proper and necessary treatment, services, or equipment provided for the diagnosis and curative or rehabilitative treatment of an accepted condition will be reimbursed by the department or self-insurer.

Average wholesale price (AWP): A pharmacy reimbursement formula by which the pharmacist is reimbursed for the cost of the product plus a mark-up. The AWP is an industry benchmark which is developed independently by companies that specifically monitor drug pricing.

Baseline price (BLP): Is derived by calculating the mean average for all NDC's (National Drug Code) in a specific product group, determining the standard deviation, and calculating a new mean average using all prices within one standard deviation of the original mean average. "Baseline price" is a drug pricing mechanism developed and updated by First Data Bank.

Bundled codes: When a bundled code is covered, payment for them is subsumed by the payment for the codes or services to which they are incident. (An example is a telephone call from a hospital nurse regarding care of a patient. This service is not separately payable because it is included in the payment for other services such as hospital visits.) Bundled codes and services are identified in the fee schedules.

By report: BR (by report) in the value column of the fee schedules indicates that the value of this service is to be determined by report (BR) because the service is too unusual, variable or new to be assigned a unit value. The report shall provide an adequate definition or description of the services

or procedures that explain why the services or procedures (e.g., operative, medical, radiological, laboratory, pathology, or other similar service report) are too unusual, variable, or complex to be assigned a relative value unit, using any of the following as indicated:

- (1) Diagnosis;
- (2) Size, location and number of lesion(s) or procedure(s) where appropriate;
- (3) Surgical procedure(s) and supplementary procedure(s);
- (4) Whenever possible, list the nearest similar procedure by number according to the fee schedules;
- (5) Estimated follow-up;
- (6) Operative time;
- (7) Describe in detail any service rendered and billed using an "unlisted" procedure code.

The department or self-insurer may adjust BR procedures when such action is indicated.

Chart notes: This type of documentation may also be referred to as "office" or "progress" notes. Providers must maintain charts and records in order to support and justify the services provided. "Chart" means a compendium of medical records on an individual patient. "Record" means dated reports supporting bills submitted to the department or self-insurer for medical services provided in an office, nursing facility, hospital, outpatient, emergency room, or other place of service. Records of service shall be entered in a chronological order by the practitioner who rendered the service. For reimbursement purposes, such records shall be legible, and shall include, but are not limited to:

- (1) Date(s) of service;
- (2) Patient's name and date of birth;
- (3) Claim number;
- (4) Name and title of the person performing the service;
- (5) Chief complaint or reason for each visit;
- (6) Pertinent medical history;
- (7) Pertinent findings on examination;
- (8) Medications and/or equipment/supplies prescribed or provided;
- (9) Description of treatment (when applicable);
- (10) Recommendations for additional treatments, procedures, or consultations;
- (11) X rays, tests, and results; and
- (12) Plan of treatment/care/outcome.

Consultation examination report: The following information must be included in this type of report. Additional information may be requested by the department as needed.

- (1) A detailed history to establish:
 - (a) The type and severity of the industrial injury or occupational disease.
 - (b) The patient's previous physical and mental health.
 - (c) Any social and emotional factors which may effect recovery.
- (2) A comparison history between history provided by attending doctor and injured worker, must be provided with exam.
- (3) A detailed physical examination concerning all systems affected by the industrial accident.

(4) A general physical examination sufficient to demonstrate any preexisting impairments of function or concurrent condition.

(5) A complete diagnosis of all pathological conditions including ICD-9-CM codes found to be listed:

(a) Due solely to injury.

(b) Preexisting condition aggravated by the injury and the extent of aggravation.

(c) Other medical conditions neither related to nor aggravated by the injury but which may retard recovery.

(d) Coexisting disease (arthritis, congenital deformities, heart disease, etc.).

(6) Conclusions must include:

(a) Type of treatment recommended for each pathological condition and the probable duration of treatment.

(b) Expected degree of recovery from the industrial condition.

(c) Probability, if any, of permanent disability resulting from the industrial condition.

(d) Probability of returning to work.

(7) Reports of necessary, reasonable X-ray and laboratory studies to establish or confirm the diagnosis when indicated.

Doctor or attending doctor: For these rules, means a person licensed to independently practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; naturopathic physician; podiatry; dentistry; optometry. An attending doctor is a treating doctor.

Only those persons so licensed may sign report of accident forms, the provider's initial report, and certify time loss compensation; however, physician assistants (PAs) also may sign these forms pursuant to WAC 296-20-01501 (PAs may be "treating providers" pursuant to the definition contained in WAC 296-20-01002); and ARNPs may also sign these forms pursuant to WAC 296-23-241 (ARNPs may be "attending providers" consistent with the definition contained in WAC 296-20-01002).

Emergent hospital admission: Placement of the worker in an acute care hospital for treatment of a work related medical condition of an unforeseen or rapidly progressing nature which if not treated in an inpatient setting, is likely to jeopardize the workers health or treatment outcome.

Endorsing practitioner: A practitioner who has reviewed the preferred drug list and has notified the health care authority that he or she has agreed to allow therapeutic interchange of a preferred drug for any nonpreferred drug in a given therapeutic class.

Fatal: When the attending doctor has reason to believe a worker has died as a result of an industrial injury or exposure, the doctor should notify the nearest department service location or the self-insurer immediately. Often an autopsy is required by the department or self-insurer. If so, it will be authorized by the service location manager or the self-insurer. Benefits payable include burial stipend and monthly payments to the surviving spouse and/or dependents.

Fee schedules or maximum fee schedule(s): The fee schedules consist of, but are not limited to, the following:

(a) Health Care Common Procedure Coding System Level I and II Codes, descriptions and modifiers that describe medical and other services, supplies and materials.

(b) Codes, descriptions and modifiers developed by the department.

(c) Relative value units (RVUs), calculated or assigned dollar values, percent-of-allowed-charges (POAC), or diagnostic related groups (DRGs), that set the maximum allowable fee for services rendered.

(d) Billing instructions or policies relating to the submission of bills by providers and the payment of bills by the department or self-insurer.

(e) Average wholesale price (AWP), baseline price (BLP), and policies related to the purchase of medications.

Health services provider or provider: For these rules means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker. It includes, but is not limited to, hospitals, medical doctors, dentists, chiropractors, vocational rehabilitation counselors, osteopathic physicians, pharmacists, podiatrists, physical therapists, occupational therapists, massage therapists, psychologists, naturopathic physicians, and durable medical equipment dealers.

Home nursing: Those nursing services that are proper and necessary to maintain the worker in his or her residence. These services must be provided through an agency licensed, certified or registered to provide home care, home health or hospice services. Refer to WAC 296-20-091 for more information.

Independent or separate procedure: Certain of the fee schedule's listed procedures are commonly carried out as an integral part of a total service, and as such do not warrant a separate charge. When such a procedure is carried out as a separate entity, not immediately related to other services, the indicated value for "independent procedure" is applicable.

Initial prescription drugs: Any drug prescribed for an alleged industrial injury or occupational disease during the initial visit.

Initial visit: The first visit to a healthcare provider during which the *Report of Industrial Injury or Occupational Disease* is completed and the worker files a claim for workers compensation.

Medical aid rules: The Washington Administrative Codes (WACs) that contain the administrative rules for medical and other services rendered to workers.

Modified work status: The worker is not able to return to their previous work, but is physically capable of carrying out work of a lighter nature. Workers should be urged to return to modified work as soon as reasonable as such work is frequently beneficial for body conditioning and regaining self confidence.

Under RCW 51.32.090, when the employer has modified work available for the worker, the employer must furnish the doctor and the worker with a statement describing the available work in terms that will enable the doctor to relate the physical activities of the job to the worker's physical limitations and capabilities. The doctor shall then determine whether the worker is physically able to perform the work described. The employer may not increase the physical

requirements of the job without requesting the opinion of the doctor as to the worker's ability to perform such additional work. If after a trial period of reemployment the worker is unable to continue with such work, the worker's time loss compensation will be resumed upon certification by the attending doctor.

If the employer has no modified work available, the department should be notified immediately, so vocational assessment can be conducted to determine whether the worker will require assistance in returning to work.

Nonemergent (elective) hospital admission: Placement of the worker in an acute care hospital for medical treatment of an accepted condition which may be safely scheduled in advance without jeopardizing the worker's health or treatment outcome.

Physician or attending physician (AP): For these rules, means any person licensed to perform one or more of the following professions: Medicine and surgery; or osteopathic medicine and surgery. An AP is a treating physician.

Practitioner or licensed health care provider: For these rules, means any person defined as a "doctor" under these rules, or licensed to practice one or more of the following professions: Audiology; physical therapy; occupational therapy; pharmacy; prosthetics; orthotics; psychology; nursing; advanced registered nurse practitioners (ARNPs); certified medical physician assistants or osteopathic physician assistants; and massage therapy.

Preferred drug list: The list of drugs selected by the appointing authority to be used by applicable state agencies as the basis for the purchase of drugs in state purchased health care programs.

Proper and necessary:

(1) The department or self-insurer pays for proper and necessary health care services that are related to the diagnosis and treatment of an accepted condition.

(2) Under the Industrial Insurance Act, "proper and necessary" refers to those health care services which are:

(a) Reflective of accepted standards of good practice, within the scope of practice of the provider's license or certification;

(b) Curative or rehabilitative. Care must be of a type to cure the effects of a work-related injury or illness, or it must be rehabilitative. Curative treatment produces permanent changes, which eliminate or lessen the clinical effects of an accepted condition. Rehabilitative treatment allows an injured or ill worker to regain functional activity in the presence of an interfering accepted condition. Curative and rehabilitative care produce long-term changes;

(c) Not delivered primarily for the convenience of the claimant, the claimant's attending doctor, or any other provider; and

(d) Provided at the least cost and in the least intensive setting of care consistent with the other provisions of this definition.

(3) The department or self-insurer stops payment for health care services once a worker reaches a state of maximum medical improvement. Maximum medical improvement occurs when no fundamental or marked change in an accepted condition can be expected, with or without treatment. Maximum medical improvement may be present

though there may be fluctuations in levels of pain and function. A worker's condition may have reached maximum medical improvement though it might be expected to improve or deteriorate with the passage of time. Once a worker's condition has reached maximum medical improvement, treatment that results only in temporary or transient changes is not proper and necessary. "Maximum medical improvement" is equivalent to "fixed and stable."

(4) In no case shall services which are inappropriate to the accepted condition or which present hazards in excess of the expected medical benefits be considered proper and necessary. Services that are controversial, obsolete, investigational or experimental are presumed not to be proper and necessary, and shall be authorized only as provided in WAC 296-20-03002(6) and 296-20-02850.

Refill: The continuation of therapy with the same drug (including the renewal of a previous prescription or adjustments in dosage) when a prescription is for an antipsychotic, antidepressant, chemotherapy, antiretroviral or immunosuppressive drug, or for the refill of an immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks.

Regular work status: The injured worker is physically capable of returning to his/her regular work. It is the duty of the attending doctor to notify the worker and the department or self-insurer, as the case may be, of the specific date of release to return to regular work. Compensation will be terminated on the release date. Further treatment can be allowed as requested by the attending doctor if the condition is not stationary and such treatment is needed and otherwise in order.

Temporary partial disability: Partial time loss compensation may be paid when the worker can return to work on a limited basis or return to a lesser paying job is necessitated by the accepted injury or condition. The worker must have a reduction in wages of more than five percent before consideration of partial time loss can be made. No partial time loss compensation can be paid after the worker's condition is stationary. **All time loss compensation must be certified by the attending doctor based on objective findings.**

Termination of treatment: When treatment is no longer required and/or the industrial condition is stabilized, a report indicating the date of stabilization should be submitted to the department or self-insurer. This is necessary to initiate closure of the industrial claim. The patient may require continued treatment for conditions not related to the industrial condition; however, financial responsibility for such care must be the patient's.

Therapeutic alternative: Drug products of different chemical structure within the same pharmacologic or therapeutic class and that are expected to have similar therapeutic effects and safety profiles when administered in therapeutically equivalent doses.

Therapeutic interchange: To dispense with the endorsing practitioner's authorization, a therapeutic alternative to the prescribed drug.

Total permanent disability: Loss of both legs or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from

performing any work at any gainful employment. When the attending doctor feels a worker may be totally and permanently disabled, the attending doctor should communicate this information immediately to the department or self-insurer. A vocational evaluation and an independent rating of disability may be arranged by the department prior to a determination as to total permanent disability. Coverage for treatment does not usually continue after the date an injured worker is placed on pension.

Total temporary disability: Full-time loss compensation will be paid when the worker is unable to return to any type of reasonably continuous gainful employment as a direct result of an accepted industrial injury or exposure.

Treating provider: For these rules, means a person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; naturopathic physician; podiatry; dentistry; optometry; advanced registered nurse practitioner (ARNP); and certified medical physician assistants or osteopathic physician assistants. A treating provider actively treats an injured or ill worker.

Unusual or unlisted procedure: Value of unlisted services or procedures should be substantiated "by report" (BR).

Utilization review: The assessment of a claimant's medical care to assure that it is proper and necessary and of good quality. This assessment typically considers the appropriateness of the place of care, level of care, and the duration, frequency or quantity of services provided in relation to the accepted condition being treated.

AMENDATORY SECTION (Amending Order 86-19, filed 2/28/86, effective 4/1/86)

WAC 296-20-025 Initial treatment and report of accident. It is the responsibility of the worker to notify the practitioner when the worker has reason to believe his injury or condition is industrial in nature. Conversely, if the attending doctor discovers a condition which he believes to be work related or has reason to believe an injury is work related, he must so notify the worker. Once such determination is made by either the claimant or the attending doctor, a report of accident must be filed.

Failure to comply with this responsibility can result in penalties as outlined in ((WAC 296-20-0200+)) RCW 51.48.-060.

It is the practitioner's responsibility to ascertain whether he is the first attending practitioner. If so, he will take the following action:

(1) Give emergency treatment.

(2) Immediately complete and forward the report of accident, to the department and the employer or self-insurer. Instruct and give assistance to the injured worker in completing his portion of the report of accident. In filing a claim, the following information is necessary so there is no delay in adjudication of the claim or payment of compensation.

(a) Complete history of the industrial accident or exposure.

(b) Complete listing of positive physical findings.

(c) Specific diagnosis with ICD-9-CM code(s) and narrative definition relating to the injury.

- (d) Type of treatment rendered.
- (e) Known medical, emotional or social conditions which may influence recovery or cause complications.
- (f) Estimate time loss due to the injury.

(3) If the patient remains under his care continue with necessary treatment in accordance with medical aid rules. If the practitioner is *not* the original attending doctor, he should question the injured worker to determine whether a report of accident has been filed for the injury or condition. If no report of accident has been filed, it should be completed immediately and forwarded to the department or self-insurer, as the case may be, with information as to the name and address of original practitioner if known, so that he/she may be contacted for information if necessary.

If a report of accident has been filed, it is necessary to have the worker complete a request for transfer as outlined in WAC 296-20-065, if the worker and practitioner agree that a change in attending doctor is desirable.

AMENDATORY SECTION (Amending WSR 01-18-041, filed 8/29/01, effective 10/1/01)

WAC 296-20-03001 Treatment requiring authorization. Certain treatment procedures require authorization by the department or self-insurer. Requests for authorization must include a statement of: The condition(s) diagnosed; ICD-9-CM codes; their relationship, if any, to the industrial injury/exposure; an outline of the proposed treatment program, its length and components, procedure codes, and expected prognosis; and an estimate of when treatment would be concluded and condition stable.

(1) Office calls in excess of the first twenty visits or sixty days whichever occurs first.

(2) The department may designate those inpatient hospital admissions that require prior authorization.

(3) X ray and radium therapy.

(4) Diagnostic studies other than routine X-ray and blood or urinalysis laboratory studies.

(5) Myelogram and discogram in nonemergent cases.

(6) Physical therapy treatment beyond initial twelve treatments as outlined in chapters 296-21, 296-23, and 296-23A WAC.

(7) Diagnostic or therapeutic injection. Epidural or caudal injection of substances other than anesthetic or contrast solution will be authorized under the following conditions only:

(a) When the worker has experienced acute low back pain or acute exacerbation of chronic low back pain of no more than six months duration.

(b) The worker will receive no more than three injections in an initial thirty-day treatment period, followed by a thirty-day evaluation period. If significant pain relief is demonstrated one additional series of three injections will be authorized. No more than six injections will be authorized per acute episode.

(8) Home nursing, attendant services or convalescent center care must be authorized per provisions outlined in WAC 296-20-091 or ((296-20-303)) 296-23-246.

(9) Provision of prosthetics, orthotics, surgical appliances, special equipment for home or transportation vehicle;

custom made shoes for ankle/foot injuries resulting in permanent deformity or malfunction of a foot; TNS units; masking devices; hearing aids; etc., must be authorized in advance as per WAC 296-20-1101 and 296-20-1102.

(10) Biofeedback program; pain clinic; weight loss program; psychotherapy; rehabilitation programs; and other programs designed to treat special problems must be authorized in advance. Refer to the department's medical aid rules and fee schedules for details.

(11) Prescription or injection of vitamins for specific therapeutic treatment of the industrial condition(s) when the attending doctor can demonstrate that published clinical studies indicate vitamin therapy is the treatment of choice for the condition. Authorization for this treatment will require presentation of facts to and review by department medical consultant.

(12) Injections of anesthetic and/or anti-inflammatory agents into the vertebral facet joints will be authorized to qualified specialists in orthopedics, neurology, and anesthesia, or other physicians who can demonstrate expertise in the procedure, AND who can provide certification their hospital privileges include the procedure requested under the following conditions:

(a) Rationale for procedure, treatment plan, and request for authorization must be presented in writing to the department or self-insurer.

(b) Procedure must be performed in an accredited hospital under radiographic control.

(c) Not more than four facet injection procedures will be authorized in any one patient.

(13) The long term prescription of medication under the specific conditions and circumstances in (a) and (b) are considered corrective therapy rather than palliative treatment and approval in advance must be obtained.

(a) Nonsteroidal anti-inflammatory agents for the treatment of degenerative joint conditions aggravated by occupational injury.

(b) Anticonvulsive agents for the treatment of seizure disorders caused by trauma.

(14) Intra-muscular and trigger point injections of steroids and other nonscheduled medications are limited to three injections per patient. The attending doctor must submit justification for an additional three injections if indicated with a maximum of six injections to be authorized for any one patient.

(15) The department may designate those diagnostic and surgical procedures which can be performed in other than a hospital inpatient setting. Where a worker has a medical condition which necessitates a hospital admission, prior approval of the department or self-insurer must be obtained.

AMENDATORY SECTION (Amending WSR 90-22-054, filed 11/5/90, effective 12/6/90)

WAC 296-20-097 Reopenings. When a claim has been closed by the department or self-insurer by written order and notice for sixty days, submission of a formal "application to reopen claim for aggravation of condition" form ((~~L1-210-79~~) #F242-079-000) is necessary. The department or self-insurer is responsible for customary charges for examina-

tions, diagnostic studies, and determining whether or not time-loss is payable regardless of the final action taken on the reopening application. Reopening applications should be submitted immediately. When reopening is granted, the department or self-insurer can pay time loss and treatment benefits only for a period not to exceed sixty days *prior* to date the application is received by the department or self-insurer. Necessary treatment should not be deferred pending a department or self-insurer adjudication decision. However, should reopening be denied treatment costs become the financial responsibility of the worker.

WSR 08-24-048 PERMANENT RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed November 25, 2008, 2:01 p.m., effective December 31, 2008]

Effective Date of Rule: December 31, 2008.

Purpose: The department has reviewed the electrical rule for additions and revisions. The electrical rules are reviewed on a regular basis to: Ensure the rules are consistent with the national consensus standards, industry practice, clarify the rules, and make fee changes.

Citation of Existing Rules Affected by this Order: WAC 296-46B-010 General, 296-46B-100 General definitions, 296-46B-110 General—Requirements for electrical installations, 296-46B-210 Wiring and protection—Branch circuits, 296-46B-215 Wiring and protection—Feeders, 296-46B-225 Wiring and protection—Outside branch circuits and feeders, 296-46B-230 Wiring and protection—Services, 296-46B-250 Wiring and protection—Grounding and bonding, 296-46B-300 Wiring methods and materials—Wiring methods, 296-46B-334 Wiring methods and materials—Nonmetallic-sheathed cable, 296-46B-358 Wiring methods and materials—Electrical metallic tubing, 296-46B-410 Equipment for general use—Luminaires, 296-46B-430 Motors, motor circuits, and controllers, 296-46B-517 Special occupancies—Health care facilities, 296-46B-555 Special occupancies—Marinas and boatyards, 296-46B-590 Special occupancies—Temporary installations, 296-46B-600 Special equipment—Electric signs and outline lighting, 296-46B-680 Special equipment—Swimming pools, fountains and similar installations, 296-46B-700 Emergency systems, 296-46B-701 Legally required standby systems, 296-46B-900 Electrical plan review, 296-46B-901 General—Electrical work permits and fees, 296-46B-906 Inspection fees, 296-46B-909 Electrical/telecommunications contractor's license, administrator certificate and examination, master electrician certificate and examination, electrician certificate and examination, temporary electrician permit, copy, and miscellaneous fees, 296-46B-915 Civil penalty schedule, 296-46B-920 Electrical/telecommunications license/certificate types and scope of work, 296-46B-925 Electrical/telecommunications contractor's license, 296-46B-935 Administrator certificate, 296-46B-940 Electrician/training/temporary certificate of competency or permit required, 296-46B-945 Qualifying for master, journeyman, specialty electrician examinations, 296-46B-

960 Administrator and electrician certificate of competency examinations, 296-46B-965 Training certificate required, 296-46B-970 Continuing education, 296-46B-995 Electrical board—Appeal rights and hearings and 296-46B-997 Engineer approval; and repealing WAC 296-46B-905 Temporary fees—Inspection fees, 296-46B-910 Temporary fees—Electrical/telecommunications contractor's license, administrator certificate and examination, master electrician certificate and examination, temporary, electrician certificate and examination, temporary electrician permit, copy, and miscellaneous fees, and 296-46B-998 Standards.

Statutory Authority for Adoption: RCW 19.28.006, 19.28.010, 19.28.031, 19.28.041, 19.28.061, 19.28.101, 19.28.131, 19.28.161, 19.28.171, 19.28.191, 19.28.201, 19.28.211, 19.28.241, 19.28.251, 19.28.281, 19.28.311, 19.28.321, 19.28.400, 19.28.420, 19.28.490, 19.28.551.

Adopted under notice filed as WSR 08-17-077 on August 19, 2008.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-46B-230(10) the reference to the NEC was updated to NEC 230.70(A).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 14, Amended 35, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 14, Amended 35, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 14, Amended 35, Repealed 3.

Date Adopted: November 25, 2008.

Judy Schurke
Director

PART A NEC INSTALLATION AMENDMENTS, STANDARDS, INSPECTIONS, AND DEFINITIONS

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-010 General. Adopted standards((~~inspectors city inspection variance~~)).

(1) The ((2005)) 2008 edition of the National Electrical Code (NFPA 70 - ((2005)) 2008) including Annex A, B, and C; the ((2003)) 2007 edition of standard for the Installation of Stationary Pumps for Fire Protection (NFPA 20 - ((2003)) 2007); the ((2002)) 2005 edition of standard for Emergency and Standby Power Systems (NFPA 110 - ((2002)) 2005); Commercial Building Telecommunications Cabling Standard (ANSI/TIA/EIA 568-B.1-((May 2001)) June 2002 including Annex 1 through 5); Commercial Building Standard for Telecommunications Pathway and Spaces (ANSI/

TIA/EIA 569-A-7 December 2001 including Annex 1 through 4); Commercial Building Grounding and Bonding Requirements for Telecommunications (ANSI/TIA/EIA 607 - A - 2002); Residential Telecommunications Cable Standard (ANSI/TIA/EIA 570-((A December 2001)) B-2004); American Railroad Engineering and Maintenance of Way Association - 2005 Communications and Signal Manual; and the National Electrical Safety Code (NESC C2-((2002)) 2007 excluding Appendixes A and B) are hereby adopted by reference as part of this chapter. Other codes, manuals, and reference works referred to in this chapter are available for inspection and review in the Olympia office of the electrical section of the department during business hours.

The requirements of this chapter will be observed where there is any conflict between this chapter and the National Electrical Code (NFPA 70), Centrifugal Fire Pumps (NFPA 20), the Emergency and Standby Power Systems (NFPA 110), ANSI/TIA/EIA 568-B, ANSI/TIA/EIA 569-A, ANSI/TIA/EIA 607, ANSI/TIA/EIA 570, or the NESC C2-((2002)) 2007.

The National Electrical Code will be followed where there is any conflict between standard for Installation of Stationary Pumps for Fire Protection (NFPA 20), standard for Emergency and Standby Power Systems (NFPA 110), ANSI/TIA/EIA 568-B, ANSI/TIA/EIA 569-A, ANSI/TIA/EIA 607, ANSI/TIA/EIA 570-B, or the NESC C2-((2002)) and the National Electrical Code (NFPA 70).

Inspections - general.

(2) Electrical inspectors will give information as to the interpretation or application of the standards in this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

(3) A variance from the electrical installation requirements of chapter 19.28 RCW or this chapter may be granted by the department or the city that has electrical inspection jurisdiction when it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

(a) Any electrical permit holder may request a variance.

(b) The permit holder must make the request in writing, using a form provided by the department, to the chief electrical inspector or to the city that has electrical inspection jurisdiction. The request must include:

(i) A description of the installation as installed or proposed;

(ii) A detailed list of the applicable code violations;

(iii) A detailed list of safety violations;

(iv) A description of the proposal for meeting equivalent objectives for code and/or safety violations; and

(v) Appropriate variance application fee as listed in chapter 296-46B WAC, Part C.

(4) Electrical wiring or equipment subject to this chapter must be sufficiently accessible, at the time of inspection, to allow the inspector to visually inspect the installation to verify conformance with the NEC and any other electrical requirements of this chapter.

(5) Cables or raceways, fished according to the NEC, do not require visual inspection.

(6) All required equipment grounding conductors installed in concealed cable or flexible conduit systems must

be completely installed and made up at the time of the rough-in cover inspection.

(7) The installation of all structural elements and mechanical systems (e.g., framing, plumbing, ducting, etc.) must be complete in the area(s) where electrical inspection is requested. Prior to completion of an exterior wall cover inspection, either:

(a) The exterior shear panel/sheathing nail inspection must be completed by the building code inspector; or

(b) All wiring and device boxes must be a minimum of 63 mm (2 1/2") from the exterior surface of the framing member; or

(c) All wiring and device boxes must be protected by a steel plate a minimum of 1.6 mm (1/16") thick and of appropriate width and height installed to cover the area of the wiring or box.

(8) In order to meet the minimum electrical safety standards for installations, all materials, devices, appliances, and equipment, not exempted in chapter 19.28 RCW, must conform to applicable electrical product standards recognized by the department, be listed, or field evaluated. For any equipment that requires an amusement operating permit under chapter 67.42 RCW, the operating permit is *prima facie* evidence of an appropriate standard. Other than as authorized by the chief electrical inspector or a city authorized to do electrical inspection, equipment must not be energized until such standards are met.

(9) The state department of transportation is recognized as the inspection authority for telecommunications systems installations within the rights of way of state highways provided the department of transportation maintains and enforces an equal, higher or better standard of construction, and of materials, devices, appliances, and equipment than is required for telecommunications systems installations by chapter 19.28 RCW and this chapter.

Inspection move on buildings and structures.

(10) All buildings or structures relocated into or within the state:

(a) Other than residential, wired inside the United States (U.S.) must be inspected to ensure compliance with current requirements of chapter 19.28 RCW and the rules developed by the department.

(b) Wired outside the U.S. or Canada must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department.

(11) Residential buildings or structures wired in the U.S., to NEC requirements, and moved into or within a county, city, or town must be inspected to ensure compliance with the NEC requirements in effect at the time and place the original wiring was made. The building or structure must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department if:

(a) The original occupancy classification of the building or structure is changed as a result of the move; or

(b) The building or structure has been substantially remodeled or rehabilitated as a result of the move.

(12) Residential buildings or structures wired in Canada to Canadian Electrical Code (CEC) standards and moved into or within a county, city, or town, must be inspected to ensure

compliance with the following minimum safety requirements:

(a) Service, service grounding, and service bonding must comply with the current chapter 19.28 RCW and rules adopted by the department.

(b) Canadian Standards Association (CSA) listed Type NMD cable is allowed with the following qualifications:

(i) CSA listed Type NMD cable, American Wire Gauge #10 and smaller installed after 1964 utilizing an equipment grounding conductor smaller than the phase conductors, must be:

(A) Replaced with a cable utilizing a full-size equipment grounding conductor; or

(B) Protected by a ground fault circuit interrupter protection device.

(ii) CSA listed Type NMD cable, #8 AWG and larger, must:

(A) Utilize an equipment grounding conductor sized according to the requirements of the NEC in effect at the time of the installation;

(B) Be protected by a ground fault circuit interrupter protection device; or

(C) Be replaced.

(c) Other types of wiring and cable must be:

(i) Replaced with wiring listed or field evaluated in accordance with U.S. standards by a laboratory approved by the department; or

(ii) Protected by a ground fault circuit interrupter protection device and arc fault circuit protection device.

(d) Equipment, other than wiring or panelboards, manufactured and installed prior to 1997 must be listed and identified by laboratory labels approved by the department or CSA labels.

(e) All panelboards must be listed and identified by testing laboratory labels approved by the department with the following qualifications:

(i) CSA listed panelboards labeled "suitable for use as service equipment" will be considered to be approved as "suitable for use only as service equipment."

(ii) CSA listed panelboards used as panelboards as described in the NEC, must meet all current requirements of the NEC and this chapter.

(f) Any wiring or panelboards replaced or changed as a result of the move must meet current requirements of chapter 19.28 RCW and this chapter.

(g) The location, type, and ground fault circuit interrupter protection of receptacles and equipment in a bathroom, kitchen, basement, garage, or outdoor area must meet the Washington requirements in effect at the time the wiring was installed.

(h) 4, 15-ampere, kitchen small appliance circuits will be accepted in lieu of 2, 20-ampere, kitchen small appliance circuits. Receptacles will not be required to be added on kitchen peninsular or island counters.

(i) Spacing requirements for all other receptacles must meet the Washington requirements in effect at the time the wiring was installed.

(j) Receptacles installed above baseboard or fixed wall space heaters must be removed and the outlet box covered

with a blank cover. The receptacle is required to be relocated as closely as possible to the existing location.

(k) Lighting outlet and switch locations must meet the Washington requirements in effect at the time the wiring was installed.

(l) Dedicated 20-ampere small appliance circuits are not required in dining rooms.

(m) Electric water heater branch circuits must be adequate for the load.

(n) The location, type, and circuit protection of feeders must meet the Washington requirements in effect at the time the wiring was installed.

Wiring methods for designated building occupancies.

(13) Wiring methods, equipment, and devices for health or personal care, educational and institutional facilities as defined or classified in this chapter and for places of assembly for one hundred or more persons must comply with Tables 010-1 and 010-2 of this chapter and the notes thereto. The local building authority will determine the occupant load of places of assembly.

(14) Listed tamper-resistant receptacles are required in all licensed day care centers, all licensed children group care facilities, and psychiatric patient care facilities where accessible to children five years of age and under. Listed tamper-resistant receptacles are required in psychiatric patient care facilities where accessible to psychiatric patients over five years of age.

Notes to Tables 010-1 and 010-2.

1. Wiring methods in accordance with the NEC unless otherwise noted.
2. Metallic or nonmetallic raceways, MI, MC, or AC cable, except that in places of assembly located within educational or institutional facilities, wiring methods must conform to NEC 518.4(A). Places of assembly located within educational or institutional facilities may not be wired according to NEC 518.4(B) or (C).
3. Limited energy systems may use wiring methods in accordance with the NEC.
4. Generator systems may be installed and wired per NEC 517.

Table 010-1 Health or Personal Care Facilities

<u>Health or Personal Care Facility Type⁽¹⁾</u>	
Hospital	
Nursing home unit or long-term care unit	
Boarding home	
Assisted living facility ⁽⁴⁾	
Private alcoholism hospital	
Alcoholism treatment facility	
Private psychiatric hospital	
Maternity home	
Birth center or childbirth center	
Ambulatory surgery facility	
Hospice care center	

Table 010-1 Health or Personal Care Facilities

<u>Health or Personal Care Facility Type⁽¹⁾</u>
Renal hemodialysis clinic
Medical, dental, and chiropractic clinic
Residential treatment facility for psychiatrically impaired children and youth
Adult residential rehabilitation center
Group care facility

Table 010-2 Educational and Institutional Facilities, Places of Assembly or Other Facilities

<u>Educational, Institutional or Other Facility Types</u>
Educational ⁽²⁾⁽³⁾
Institutional ⁽²⁾⁽³⁾
Places of Assembly for 100 or more persons ⁽¹⁾
Child day care center ⁽¹⁾
School-age child care center ⁽¹⁾
Family child day care home, family child care home, or child day care facility ⁽¹⁾

Traffic management systems.

(15) The department or city authorized to do electrical inspections will perform the electrical inspection and acceptance of traffic management systems within its jurisdiction. A traffic management system includes:

- (a) Traffic illumination systems;
- (b) Traffic signal systems;
- (c) Traffic monitoring systems;
- (d) The electrical service cabinet and all related components and equipment installed on the load side of the service cabinet supplying electrical power to the traffic management system; and
- (e) Signalization system(s) necessary for the operation of a light rail system.

A traffic management system can provide signalization for controlling vehicular traffic, pedestrian traffic, or rolling stock.

(16) The department or city authorized to do electrical inspections recognizes that traffic signal conductors, pole and bracket cables, signal displays, traffic signal controllers/cabinets and associated components used in traffic management systems are acceptable for the purpose of meeting the requirements of chapter 19.28 RCW provided they conform with the following standards or are listed on the Washington state department of transportation (WSDOT) qualified products list.

- (a) WSDOT/APWA standard specifications and plans;
- (b) WSDOT *Design Manual*;
- (c) International Municipal Signal Association (IMSA);
- (d) National Electrical Manufacturer's Association (NEMA);
- (e) Federal Standards 170/Controller Cabinets;
- (f) Manual for *Uniform Road, Bridge, and Municipal Construction*;
- (g) Institute of Transportation Engineers (ITE); or

(h) Manual of Uniform Traffic Control Devices (MUTCD).

(17) Associated induction detection loop or similar circuits will be accepted by the department or city authorized to do electrical inspections without inspection.

(18) For the licensing requirements of chapter 19.28 RCW, jurisdictions will be considered owners of traffic management systems when doing electrical work for another jurisdiction(s) under a valid interlocal agreement, as permitted by chapter 39.34 RCW. Interlocal agreements for traffic management systems must be filed with the department or city authorized to do electrical inspections prior to work being performed for this provision to apply.

(19) Jurisdictions, with an established electrical inspection authority, and WSDOT may perform electrical inspection on their rights of way for each other by interlocal agreement. They may not perform electrical inspection on other rights of way except as allowed in chapter 19.28 or 39.34 RCW.

(20) Underground installations.

(a) In other than open trenching, raceways will be considered "fished" according to the NEC and do not require visual inspection.

(b) The department or city authorized to do electrical inspections will conduct inspections in open trenching within its jurisdiction. The electrical work permit purchaser must coordinate the electrical inspection. A written request (e.g., letter, e-mail, fax, etc.) for inspection, made to the department or city authorized to do electrical inspections office having the responsibility to perform the inspection, must be made a minimum of two working days prior to the day inspection is needed (e.g., two working days 10:00 a.m. Tuesday request for a 10:00 a.m. Thursday inspection, excluding holidays and weekends).

If, after proper written request, the department or city authorized to do electrical inspections fails to make an electrical inspection at the time requested, underground conduit may be covered after inspection by the local government jurisdiction's project inspector/designee. Written documentation of a local government jurisdiction inspection must be provided to the department or city authorized to do electrical inspections when requested. Written documentation will include:

(i) Date and time of inspection;

(ii) Location;

(iii) Installing firm;

(iv) Owner;

(v) Type of conduit;

(vi) Size of conduit;

(vii) Depth of conduit; and

(viii) Project inspector/designee name and contact information.

(21) Identification of traffic management system components. Local government jurisdictions or WSDOT may act as the certifying authority for the safety evaluation of all components.

(a) An electrical service cabinet must contain only listed components. The electrical service cabinet enclosure is not required to be listed but will conform to the standards in subsection (22) of this section.

(b) The local government jurisdiction must identify, as acceptable, the controller cabinet or system component(s) with an identification plate. The identification plate must be located inside the cabinet and may be attached with adhesive.

(22) Conductors of different circuits in same cable, enclosure, or raceway. All traffic management system circuits will be permitted to occupy the same cable, enclosure, or raceway without regard to voltage characteristics, provided all conductors are insulated for the maximum voltage of any conductor in the cable, enclosure, or raceway.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-100 General definitions. (1) All definitions listed in the National Electrical Code and chapter 19.28 RCW are recognized in this chapter unless other specific definitions are given in this chapter. The definitions in this section apply to all parts of this chapter. Some sections may have definitions specific to that section.

(2) "Accreditation" is a determination by the department that a laboratory meets the requirements of this chapter and is therefore authorized to evaluate electrical products that are for sale in the state of Washington.

(3) "Administrative law judge" means an administrative law judge (ALJ) appointed pursuant to chapter 34.12 RCW and serving in board proceedings pursuant to chapter 19.28 RCW and this chapter.

(4) "ANSI" means American National Standards Institute. Copies of ANSI standards are available from the National Conference of States on Building Codes and Standards, Inc.

(5) "Appeal" is a request for review of a department action by the board as authorized by chapter 19.28 RCW.

(6) "Appellant" means any person, firm, partnership, corporation, or other entity that has filed an appeal or request for board review.

(7) "Appliance" means household appliance.

(8) "ASTM" means the American Society for Testing and Materials. Copies of ASTM documents are available from ASTM International.

(9) "AWG" means American Wire Gauge.

(10) "Basement" means that portion of a building that is partly or completely below grade plane. A basement shall be considered as a story above grade plane and not a basement where the finished surface of the floor above the basement is:

(a) More ((that)) than 1829 mm (six feet) above grade plane;

(b) More than 1829 mm (six feet) above the finished ground level for more than 50% of the total building perimeter; or

(c) More than 3658 mm (twelve feet) above the finished ground level at any point. Also see "mezzanine" and "story."

(11) "Board" means the electrical board established and authorized under chapter 19.28 RCW.

(12) "Chapter" means chapter 296-46B WAC unless expressly used for separate reference.

(13) "Category list" is a list of nonspecific product types determined by the department.

(14) A "certified electrical product" is an electrical product to which a laboratory, accredited by the state of Washington, has the laboratory's certification mark attached.

(15) A "certification mark" is a specified laboratory label, symbol, or other identifying mark that indicates the manufacturer produced the product in compliance with appropriate standards or that the product has been tested for specific end uses.

(16) "Certificate of competency" includes the certificates of competency for master journeyman electrician, master specialty electrician, journeyman, and specialty electrician.

(17) A laboratory "certification program" is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority, regulating the evaluation of electrical products for certification marking by an electrical products certification laboratory.

(18) A "complete application" includes the submission of all appropriate fees, documentation, and forms.

(19) "Construction," for the purposes of chapter 19.28 RCW, means electrical construction.

(20) "Coordination (selective)" as defined in NEC 100 shall be determined and documented by a professional engineer registered under chapter 18.43 RCW.

(21) "Department" means the department of labor and industries of the state of Washington.

(22) "Director" means the director of the department, or the director's designee.

(23) Egress - unobstructed (as applied to NEC 110.26 (C)(2)(a)) means an egress path that allows a worker to travel to the exit from any other area in the room containing the equipment described in NEC 110.26 (C)(2) without having to pass through that equipment's required working space.

(24) "Electrical equipment" includes electrical conductors, conduit, raceway, apparatus, materials, components, and other electrical equipment not exempted by RCW 19.28.006

(9) Any conduit/raceway of a type listed for electrical use is considered to be electrical equipment even if no wiring is installed in the conduit/raceway at the time of the conduit/raceway installation.

((24))) (25) An "electrical products certification laboratory" is a laboratory or firm accredited by the state of Washington to perform certification of electrical products.

((25))) (26) An "electrical products evaluation laboratory" is a laboratory or firm accredited by the state of Washington to perform on-site field evaluation of electrical products for safety.

((26)) "Exit, and unobstructed (as applied to NEC 110.26 (C)(2)(a))" means an exit path that allows a worker to travel to the exit from any other area in the room containing the equipment described in NEC 110.26 (C)(2) without having to pass through that equipment's required working space.))

(27) "Field evaluated" means an electrical product to which a field evaluation mark is attached. Field evaluation must include job site inspection unless waived by the department, and may include component sampling and/or laboratory testing.

(28) "Field evaluation mark" is a specified laboratory label, symbol, or other identifying mark indicating the manufacturer produced the product in essential compliance with

appropriate standards or that the product has been evaluated for specific end uses.

(29) A "field evaluation program" is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority regulating the testing and evaluation of electrical products for field evaluation marking.

(30) The "filing" is the date the document is actually received in the office of the chief electrical inspector.

(31) "Final judgment" means any money that is owed to the department under this chapter, including fees and penalties, or any money that is owed to the department as a result of an individual's or contractor's unsuccessful appeal of a citation.

(32) "Fished wiring" is when cable or conduit is installed within the finished surfaces of an existing building or building structure (e.g., wall, floor or ceiling cavity).

(33) "Household appliance" means utilization equipment installed in a dwelling unit that is built in standardized sizes or types and is installed or connected as a unit to perform one or more functions such as cooking and other equipment installed in a kitchen, clothes drying, clothes washing, portable room air conditioning units and portable heaters, etc. Fixed electric space-heating equipment covered in NEC 424 (furnaces, baseboard and wall heaters, electric heat cable, etc.) and fixed air-conditioning/heat pump equipment (NEC 440) are not household appliances. Household appliance does not mean any utilization equipment:

(a) Supplies electrical power, other than Class 2, to other utilization equipment; or

(b) Receives electrical power, other than Class 2, through other utilization equipment.

(34) HVAC/refrigeration specific definitions:

(a) "HVAC/refrigeration" means heating, ventilation, air conditioning, and refrigeration.

(b) "HVAC/refrigeration component" means electrical power and limited energy components within the "HVAC/refrigeration system," including, but not limited to: Pumps, compressors, motors, heating coils, controls, switches, thermostats, humidistats, low-voltage damper controls, outdoor sensing controls, outside air dampers, stand-alone duct smoke detectors, air monitoring devices, zone control valves and equipment for monitoring of HVAC/refrigeration control panels and low-voltage connections. This definition excludes equipment and components of non-HVAC/refrigeration control systems."

(c) "HVAC/refrigeration control panel" means an enclosed, manufactured assembly of electrical components designed specifically for the control of a HVAC/refrigeration system. Line voltage equipment that has low voltage, NEC Class 2 control or monitoring components incidental to the designed purpose of the equipment is not an HVAC/refrigeration control panel (e.g., combination starters).

(d) "HVAC/refrigeration control system" means a network system regulating and/or monitoring a HVAC/refrigeration system. Equipment of a HVAC/refrigeration control system includes, but is not limited to: Control panels, data centers, relays, contactors, sensors, and cables related to the monitoring and control of a HVAC/refrigeration system(s).

(e) "HVAC/refrigeration equipment" means the central unit primary to the function of the "HVAC/refrigeration system." HVAC/refrigeration includes, but is not limited to: Heat pumps, swamp coolers, furnaces, compressor packages, and boilers.

(f) "HVAC/refrigeration system" means a system of HVAC/refrigeration: Wiring, equipment, and components integrated to generate, deliver, or control heated, cooled, filtered, refrigerated, or conditioned air. This definition excludes non-HVAC/refrigeration control systems (e.g., fire alarm systems, intercom systems, building energy management systems, and similar non-HVAC/refrigeration systems) (see Figure 920-1 and Figure 920-2).

(35) "IBC" means the International Building Code. Copies of the IBC are available from the International Code Council.

(36) An "individual" or "party" or "person" means an individual, firm, partnership, corporation, association, government subdivision or unit thereof, or other entity.

(37) An "installation" includes the act of installing, connecting, repairing, modifying, or otherwise performing work on an electrical system, component, equipment, or wire except as exempted by WAC 296-46B-925.

(38) An "identification plate" is a phenolic or metallic plate or other similar material engraved in block letters at least 1/4" (6 mm) high unless specifically required to be larger by this chapter, suitable for the environment and application. The letters and the background must be in contrasting colors. Screws, rivets, or methods specifically described in this chapter must be used to affix an identification plate to the equipment or enclosure.

(39) "License" means a license required under chapter 19.28 RCW.

(40) "Labeled" means an electrical product that bears a certification mark issued by a laboratory accredited by the state of Washington.

(41) A "laboratory" may be either an electrical product(s) certification laboratory or an electrical product(s) evaluation laboratory.

(42) A "laboratory operations control manual" is a document to establish laboratory operation procedures and may include a laboratory quality control manual.

(43) "Like-in-kind" means having similar characteristics such as voltage requirement, current draw, circuit overcurrent and short circuit characteristics, and function within the system and being in the same location. Like-in-kind also includes any equipment component authorized by the manufacturer as a suitable component replacement part.

(44) For the purpose of WAC 296-46B-940(6), a "line-man" is a person employed by a serving electrical utility or employed by a licensed general electrical contractor who carries, on their person, evidence that they:

(a) Have graduated from a department-approved lineman's apprenticeship course; or

(b) Are currently registered in a department-approved lineman's apprenticeship course and are working under the direct one hundred percent supervision of a journeyman electrician or a graduate of a lineman's apprenticeship course approved by the department. The training received in the lineman's apprenticeship program must include training in

applicable articles of the currently adopted National Electrical Code.

(45) "Listed" means equipment has been listed and identified by a laboratory approved by the state of Washington for the appropriate equipment standard per this chapter.

(46) "Low voltage" means:

(a) NEC, Class 1 power limited circuits at 30 volts maximum.

(b) NEC, Class 2 circuits powered by a Class 2 power supply as defined in NEC ((725.41)) 725.121(A).

(c) NEC, Class 3 circuits powered by a Class 3 power supply as defined in NEC ((725.41)) 725.121(A).

(d) Circuits of telecommunications systems as defined in chapter 19.28 RCW.

(47) "Mezzanine" is the intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third of the area of the room or space in which the level or levels are located. Also see "basement" and "story."

(48) "NEC" means National Electrical Code. Copies of the NEC are available from the National Fire Protection Association.

(49) "NEMA" means National Electrical Manufacturer's Association. Copies of NEMA standards are available from the National Electrical Manufacturer's Association.

(50) "NESC" means National Electrical Safety Code. Copies of the NESC are available from the Institute of Electrical and Electronics Engineers, Inc.

(51) "NETA" means International Electrical Testing Association, Inc. Copies of the NETA standards and information are available from the International Electrical Testing Association, Inc.

(52) "NFPA" means the National Fire Protection Association. Copies of NFPA documents are available from the National Fire Protection Association.

(53) "NRTL" means Nationally Recognized Testing Laboratory accredited by the federal Occupational Safety and Health Administration (OSHA) after meeting the requirements of 29 CFR 1910.7.

(54) "Point of contact" ((for utility work, means the point at which a customer's electrical system connects to the serving utility system)) or "point of connection" means the service point.

(55) "Proceeding" means any matter regarding an appeal before the board including hearings before an administrative law judge.

(56) "Public area or square" is an area where the public has general, clear, and unrestricted access.

(57) A "quality control manual" is a document to maintain the quality control of the laboratory's method of operation. It consists of specified procedures and information for each test method responding to the requirements of the product standard. Specific information must be provided for portions of individual test methods when needed to comply with the standard's criteria or otherwise support the laboratory's operation.

(58) "RCW" means the Revised Code of Washington. Copies of electrical RCWs are available from the department and the office of the code reviser.

(59) "Readily accessible" means the definition as defined in NEC 100. In addition, it means that, except for keys, no tools or other devices are necessary to gain access (e.g., covers secured with screws, etc.).

(60) Service specific definitions replacing those found in NEC Article 100:

(a) "Service drop" means the overhead service conductors from the service point to the connection to the service-entrance conductors at the building or other structure.

(b) "Service-entrance conductors, overhead system" means the service conductors between the terminals of the service equipment and a point usually outside the building, clear of building walls, where joined by tap or splice to the service drop or service point.

(c) "Service-entrance conductors, underground system" means the service conductors between the terminals of the service equipment and the point of connection to the service lateral or service point. Where the service equipment is located outside the building walls, there may be no service-entrance conductors or they may be entirely outside the building.

(d) "Service lateral" means the underground service conductors from the service point to the point of connection to the service-entrance conductors in a terminal box, meter, or other enclosure. Where there is not a terminal box, meter, or other enclosure, the point of connection is the point of entrance of the service conductors into the building.

(61) A "stand-alone amplified sound or public address system" is a system that has distinct wiring and equipment for audio signal generation, recording, processing, amplification, and reproduction. This definition does not apply to telecommunications installations.

((60)) (62) "Service" or "served" means that as defined in RCW 34.05.010(19) when used in relation to department actions or proceedings.

((61)) (63) A "sign," when required by the NEC, for use as an identification method means "identification plate."

(64) "Story" is that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. Next above means vertically and not necessarily directly above. Also see "basement" and "mezzanine."

((62)) (65) "Structure," for the purposes of this chapter and in addition to the definition in the NEC, means something constructed either in the field or factory that is used or intended for supporting or sheltering any use or occupancy as defined by the IBC.

((63)) (66) A "telecommunications local service provider" is a regulated or unregulated (e.g., by the Federal Communications Commission or the utilities and transportation commission as a telephone or telecommunications provider) firm providing telecommunications service ahead of the telecommunications network demarcation point to an end-user's facilities.

((64)) (67) "TIA/EIA" means the Telecommunications Industries Association/Electronic Industries Association which publishes the TIA/EIA Telecommunications Building Wiring Standards. Standards and publications are adopted by TIA/EIA in accordance with the American National Standards Institute (ANSI) patent policy.

((65)) (68) A "training school" is a public community or technical college or not-for-profit nationally accredited technical or trade school licensed by the work force training and education coordinating board under chapter 28C.10 RCW.

((66)) (69) "Under the control of a utility" for the purposes of RCW 19.28.091 and 19.28.101 is when electrical equipment is not owned by a utility and:

(a) Is located in a vault, room, closet, or similar enclosure that is secured by a lock or seal so that access is restricted to the utility's personnel; or

(b) The utility is obligated by contract to maintain the equipment and the contract provides that access to the equipment is restricted to the utility's personnel or other qualified personnel.

((67)) (70) "UL" means Underwriters Laboratory.

((68)) (71) "Utility" means an electrical utility.

((69)) (72) "Utility system" means electrical equipment owned by or under the control of a serving utility that is used for the transmission or distribution of electricity from the source of supply to the point of contact and is defined in section 90.2 (b)(5) of the National Electrical Code, 1981 edition (see RCW 19.28.010(1)).

((70)) (73) "Utilization voltage" means the voltage level employed by the utility's customer for connection to lighting fixtures, motors, heaters, or other electrically operated equipment other than power transformers.

((71)) (74) "Variance" is a modification of the electrical requirements as adopted in chapter 19.28 RCW or any other requirements of this chapter that may be approved by the chief electrical inspector if assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

((72)) (75) "WAC" means the Washington Administrative Code. Copies of this chapter of the WACs are available from the department and the office of the code reviser.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-110 General—Requirements for electrical installations.

002 Mechanical execution of work.

(1) Unused openings. Unused openings in boxes, raceways, auxiliary gutters, cabinets, cutout boxes, meter socket enclosures, equipment cases, or housings shall be effectively closed to afford protection substantially equivalent to the wall of the equipment. Where metallic plugs or plates are used with nonmetallic enclosures, they shall be recessed at least 6 mm (1/4") from the outer surface of the enclosure. Unused openings do not include weep holes, unused mounting holes, or any other opening with less than .15 square inches of open area.) **003 Examination, identification, installation, and use of equipment.**

(1) Listed electrical conduit can only be installed and used in accordance with its listing (i.e., as an electrical raceway for electrical conductors). If used as a sleeve for electrical conductors or other listed electrical conduits, the installation of a listed electrical conduit will be assumed to be for use as an electrical raceway and must be installed as allowed by

chapter 19.28 RCW and this chapter (e.g., owner exemption, electrical contractor, etc.).

011 Deteriorating agents.

(2) Electrical equipment and wiring that has been submerged or exposed to water must comply with the following:

(a) All breakers, fuses, controllers, receptacles, lighting switches/dimmers, electric heaters, and any sealed device/equipment (e.g., relays, contactors, etc.) must be replaced.

(b) All other electrical equipment (e.g., wiring, breaker panelboards, disconnect switches, switchgear, motor control centers, boiler controls, HVAC/R equipment, electric motors, transformers, appliances, water heaters, and similar appliances) must be replaced or reconditioned by the original manufacturer or by its approved representative.

016 Flash protection.

((2)) (3) The flash protection marking required by NEC 110.16 must be an identification plate or label approved by the electrical inspector and may be installed either in the field or in the factory. The plate or label may be mounted using adhesive.

022 Identification of disconnecting means.

((3)) (4) For the purposes of legibly marking a disconnecting means, as required in NEC 110.22, an identification plate is required unless the disconnect is a circuit breaker/fused switch installed within a panelboard and the circuit breaker/fused switch is identified by a panelboard schedule. In other than dwelling units, the identification plate must include the identification designation of the circuit source panelboard that supplies the disconnect.

((4) Where electrical equipment is installed to obtain a series combination rating, the identification as required by NEC 110.22, must be in the form of an identification plate that is substantially yellow in color. The words "CAUTION—SERIES COMBINATION RATED SYSTEM" must be on the label in letters at least 13 mm (1/2") high.)

030 Over 600 volts - general.

(5) Each cable operating at over 600 volts and installed on customer-owned systems must be legibly marked in a permanent manner at each termination point and at each point the cable is accessible. The required marking must use phase designation, operating voltage, and circuit number if applicable.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-210 Wiring and protection—Branch circuits. 008(A) Dwelling units GFCI requirements.

(1) In a garage or unfinished basement, a red receptacle, with a red cover plate, supplying a fire alarm system is not required to have ground-fault circuit-interrupter protection. The receptacle must be identified for use only with the fire alarm system by an identification plate or engraved cover with letters at least 1/4" high.

008(B) Other than dwelling units - GFCI requirements.

((1)) (2) GFCI requirements.

(a) For the purposes of NEC 210.8(B), kitchen means any area where utensils, dishes, etc., are cleaned or where food or beverages are prepared or cooked.

(b) All 125-volt, 15- and 20-ampere receptacles installed in wet locations must have Class A ground-fault circuit interrupter protection((s)) for personnel.

011 Branch circuits.

((2)) (3) A raceway system or one dedicated 15-ampere minimum, 120 volt circuit((s)) must be taken to all unfinished space((s)) areas adaptable to future dwelling unit living areas that are not readily accessible to the service or branch circuit panelboard. One circuit or raceway is required for each 480 square feet or less of unfinished space area. If the total adjacent unfinished space area is less than 480 square feet, the circuit can be an extension of an existing circuit. The circuits must terminate in a suitable box(es). The box must contain an identification of the intended purpose of the circuit(s). The branch circuit panelboard must have adequate space and capacity for the intended load(s).

012 Arc-fault circuit-interrupter protection.

((3) For the purpose of) (4) NEC 210.12(B)((5)) is amended to require AFCI protection only for dwelling unit bedroom spaces.

(a) Dwelling unit bedroom spaces include spaces that:

(i) Are used as the bedroom;

((a)) (ii) Are accessed only through the bedroom;

((b)) (iii) Are ancillary to the bedroom's function (e.g., closets, sitting areas, etc.); ((and

((e))) (iv) Contain branch circuits that supply 125-volt, 15-and 20-ampere, outlets ((must be protected by an arc-fault circuit interrupter listed to provide protection per NEC 210.12.

For the purposes of this section, such spaces will include, but not be limited to, spaces such as closets and sitting areas, but will not include)); and

(v) Are not bathrooms.

(b) If a new circuit(s) is added in an existing dwelling unit bedroom, an existing outlet(s) that is not connected to the new circuit(s) does not require arc-fault circuit interrupter protection if the outlet(s) was installed before December 1, 2005.

(c) If an existing circuit, installed before December 1, 2005, is extended, arc-fault circuit interrupter protection is not required.

(d) Arc-fault circuit interrupter protection is not required to be used for smoke or fire alarm outlets.

025 Common area branch circuits.

((4)) (5) For the purpose of NEC 210.25, loads for septic or water well systems that are shared by no more than two dwelling units may be supplied from either of the two dwelling units if approved by the local building official and local health department.

051(B)(5) Receptacle outlet locations.

((5) Receptacle outlets installed in appliance garages may be counted as a required countertop outlet.))

052(A)(2) Dwelling unit receptacle outlets.

(6) For the purpose of NEC 210.52 (A)(2)(1), "similar openings" include the following configurations that are a permanent part of the dwelling configuration or finish:

(a) Window seating; and

(b) Bookcases or cabinets that extend from the floor to a level at least 1.7 meters (five (5) feet six (6) inches) above the floor.

Any outlets eliminated by such window seating, bookcases, or cabinets must be installed elsewhere within the room.

052(E)(3) Outdoor outlets.

(7) For the purposes of NEC 210.52 (E)(3), the exception will read: Balconies, decks, or porches with an area of less than 1.86 m² (20 ft²) are not required to have a receptacle installed.

052(B) Receptacle outlet locations.

(8) Receptacle outlets installed in appliance garages may be counted as a required countertop outlet.

052(C) Countertops.

((7)) (9) A receptacle(s) is not required to be installed in the area directly behind a sink or range as shown in NEC 210.52, Figure 210.52 (C)(1). Outlets must be installed within 24" on either side of a sink or range as shown in Figure 210.52 (C)(1).

((8)) (10) If it is impracticable to install the outlet(s) required in NEC ((21.52)) 210.52 (C)(3), a receptacle is not required on any peninsular counter surface as required by NEC 210.52 (C)(3) so long as the peninsular counter area extends no farther than 6' from the face of the adjoining countertop. Any outlet(s) eliminated using this subsection must be installed in the wall space at the point where the peninsula connects to the wall countertop in addition to the outlets required by NEC 210.52 (C)(1).

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-215 Wiring and protection—Feeders.

005 Diagrams of feeders.

(1) Other than plan review projects, the installer must provide a one-line diagram showing the service and feeder details for the project before the initial inspection can be approved for all nondwelling services or feeders:

- (a) Larger than 400 amperes; or
- (b) Over 600 volts.

The diagram must be signed and dated by the project owner if the owner is doing the work, or the assigned administrator or master electrician if an electrical contractor is doing the work. The diagram must show:

(c) All services including: Wire size(s), wire type(s), service size(s) (e.g., voltage, phase, ampacity), overcurrent protection, available symmetrical fault current at the service point, equipment short-circuit rating, total load before and after demand factors have been applied including any demand factors used, and a panel schedule where multiple disconnecting devices are present; and

(d) All feeders including: Wire size(s), wire type(s), feeder size(s) (e.g., voltage, phase, ampacity), overcurrent protection, total calculated load before and after demand factors have been applied including any demand factors used, and a panel schedule(s) where multiple disconnecting devices are present.

If the installer deviates, in any way, from the service/feeder design shown on the diagram, a supplemental diagram must be supplied to the inspector showing the most recent design before inspection can proceed. Load reductions and moving branch circuit locations within a panelboard do not

require a supplemental diagram. Written documentation must also be provided to the inspector that the supplemental diagram was provided to the project owner at the time of submission to the inspector.

010 ((Feeders—)) Ground fault protection testing.

(2) Equipment ground fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. This test or a subsequent test must include all system feeders. A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be provided for the inspector's records at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-225 Wiring and protection—Outside branch circuits and feeders.

030 Number of supplies.

(1) For the purposes of NEC 225.30(A) and this section, if a property has only a single building that is supplied from a remote service, the building may be supplied by no more than two feeders originating from the service equipment. The service equipment must contain overcurrent protection appropriate to each feeder. The building disconnecting means required by NEC 225.32 must be located within sight and within 5' of each other.

032 Location of outside feeder disconnecting means.

(2) The building disconnecting means required by NEC 225.32 must be provided to disconnect all ungrounded conductors that supply or pass through a building or structure per the requirements of NEC 225.32 (except for Exceptions 1, 2, 3, or 4) in accordance with (a) or (b) of this subsection ((+) or (2) of this section)).

((+)) (a) Outside location: Except for an outdoor generator set described in a NEC 700, 701, or 702 system, where the feeder disconnecting means is installed outside a building or structure, it must be on the building or structure or within sight and within fifteen feet of the building or structure supplied. The building disconnecting means may supply only one building/structure unless the secondary building(s)/structure(s) has a separate building disconnecting means meeting the requirements of the NEC and this subsection. The disconnecting means must have an identification plate with at least one-half-inch high letters identifying:

((+)) (i) The building/structure served; and

((+)) (ii) Its function as the building/structure main disconnect(s).

((2)) (b) Inside location: The feeder disconnecting means may be installed anywhere inside a building or structure when there is a feeder disconnecting means, located elsewhere on the premises, with overcurrent protection sized for the feeder conductors.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-230 Wiring and protection—Services.

001 General service requirements.

(1) The owner, the owner's agent, or the electrical contractor making the installation must consult the serving utility regarding the utility's service entrance requirements for equipment location and meter equipment requirements before installing the service and equipment. Provisions for a meter and related equipment, an attachment of a service drop, or an underground service lateral must be made at a location acceptable to the serving utility. The point of contact for a service drop must permit the clearances required by the NEC.

(2) A firewall must have a minimum two-hour rating as defined by the local building official to be considered a building separation in accordance with Article 100 NEC.

(3) The height of the center of the service meter must be as required by the serving utility. Secondary instrument transformer metering conductor(s) are not permitted in the service raceway.

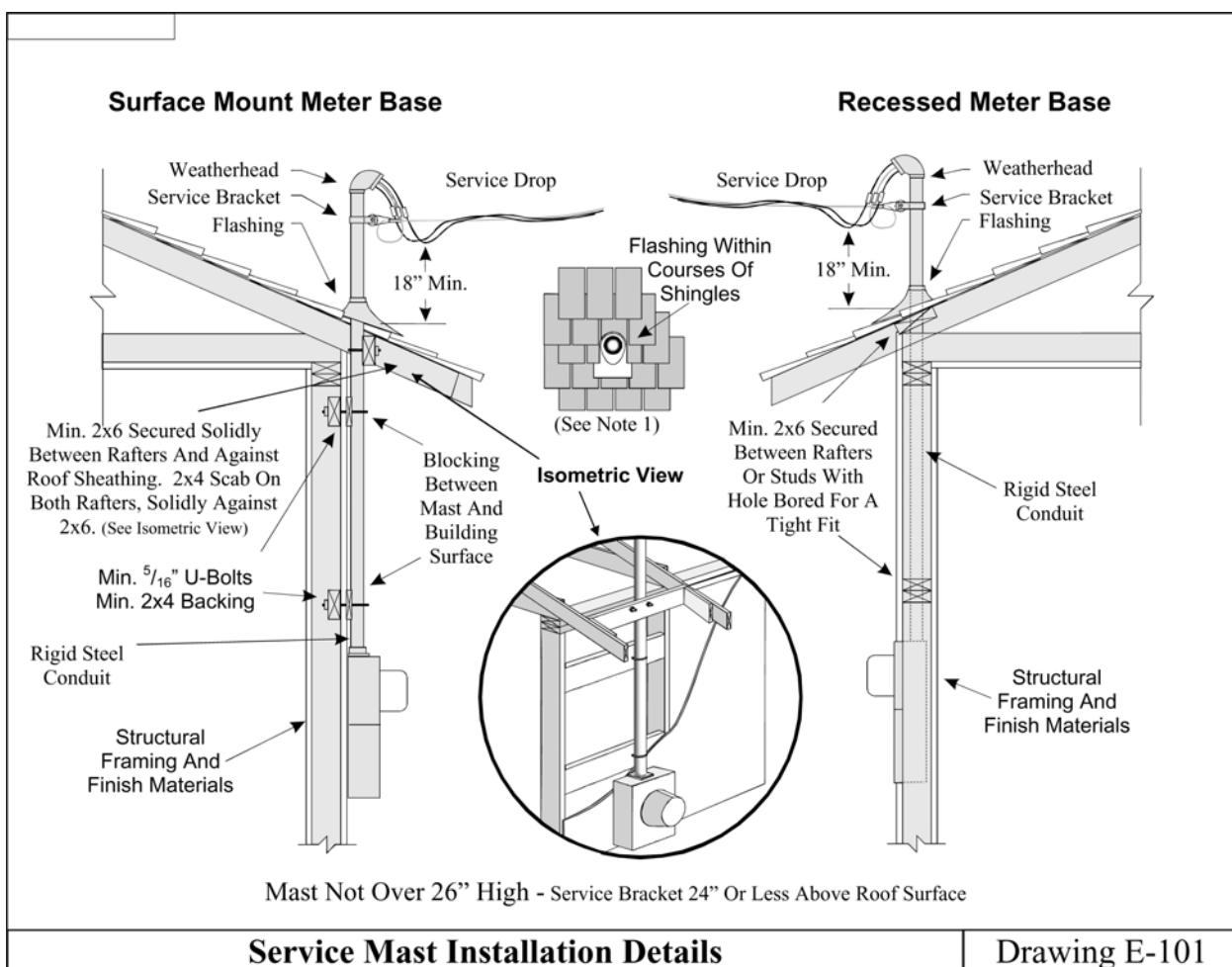
028 Service or other masts.

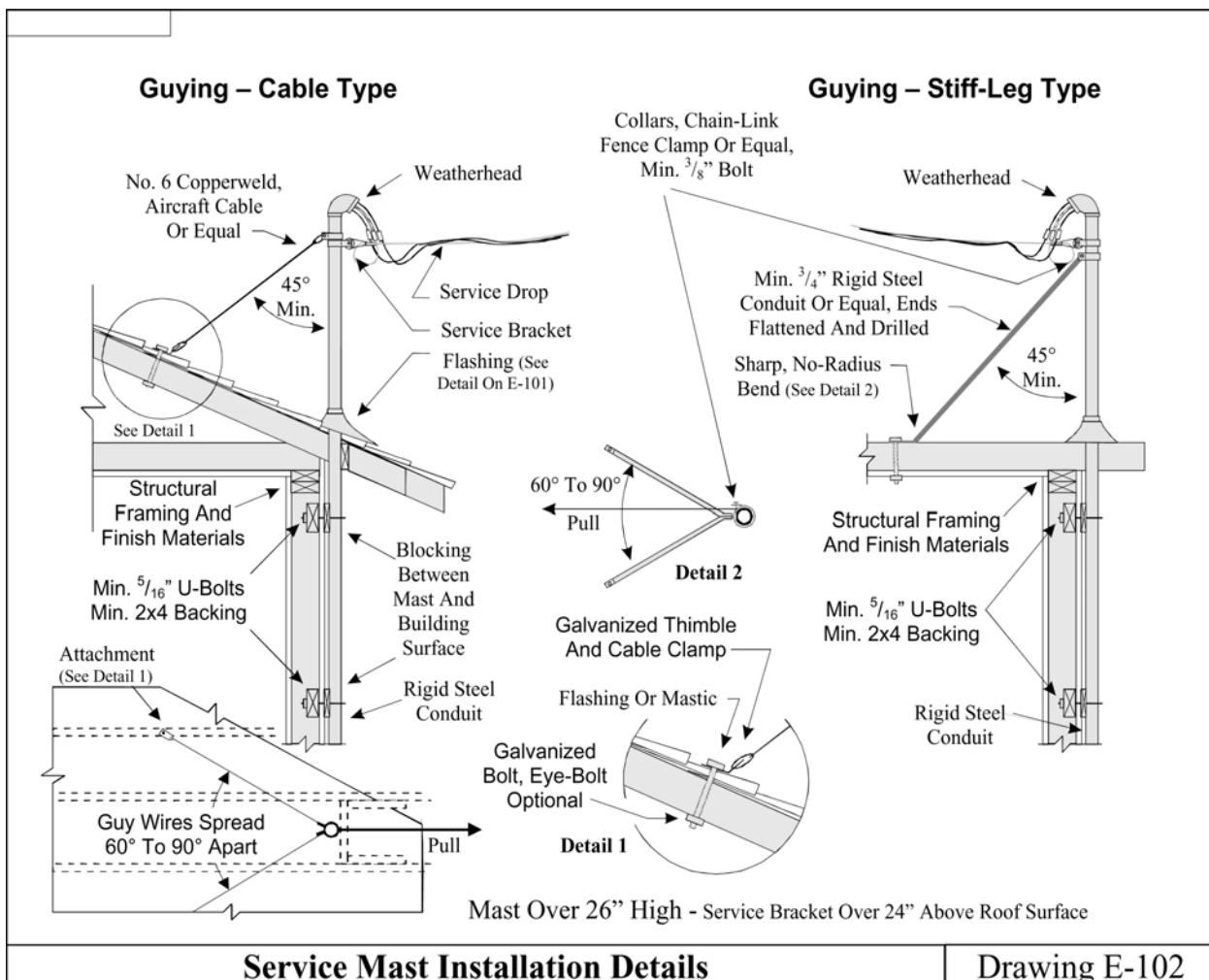
(4) Conduit extended through the roof to provide means of attaching:

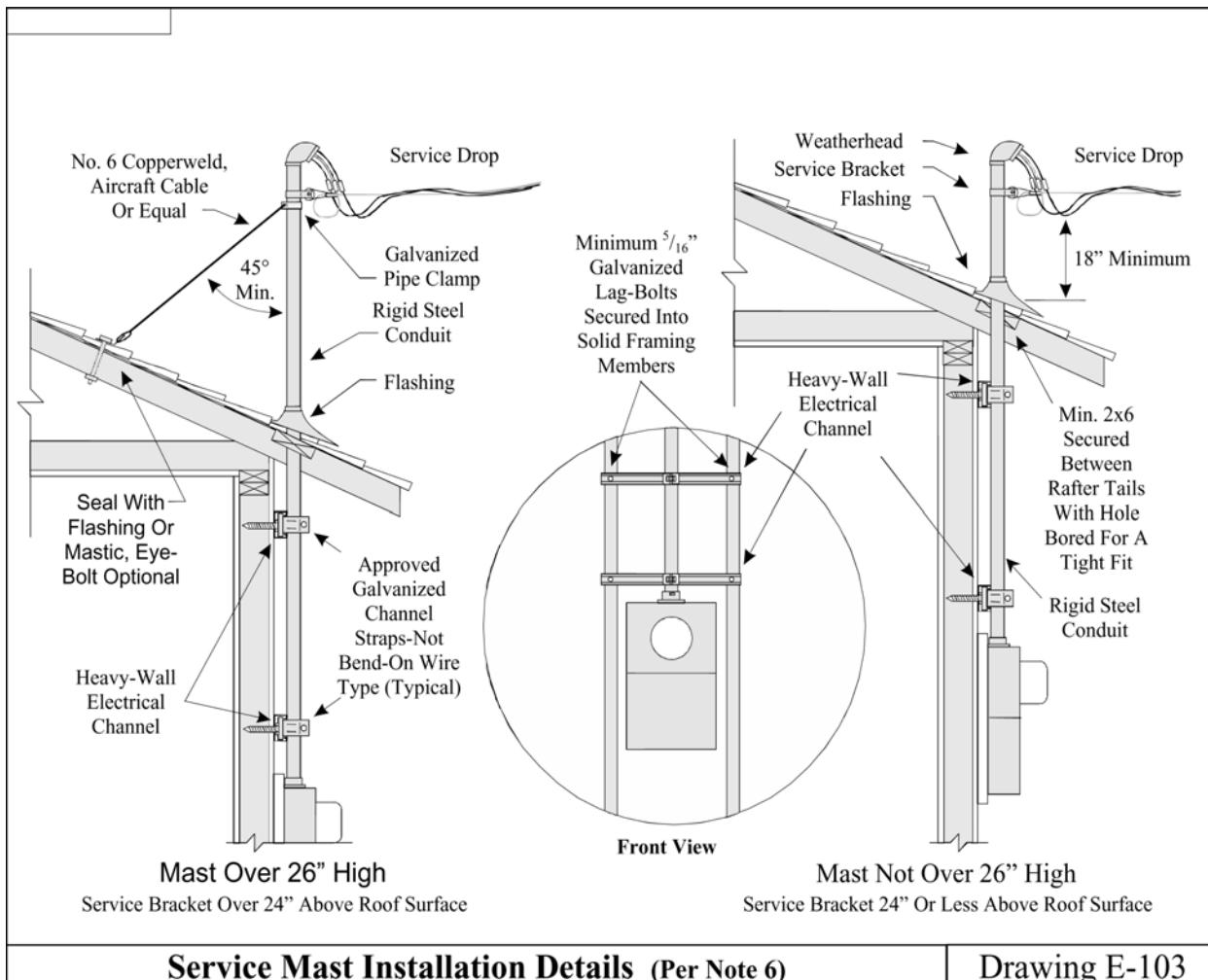
(a) All overhead drops for service, feeder, or branch circuits exceeding #1 AWG aluminum or #3 AWG copper must be rigid steel galvanized conduit no smaller than two inches.

(b) All overhead drops for service, feeder or branch circuits not exceeding #1 AWG aluminum or #3 AWG copper must be rigid steel galvanized conduit no smaller than one and one-quarter inch. The installation must comply with drawings E-101 and/or E-102, or must provide equivalent strength by other approved means. Masts for altered or relocated installations will be permitted to comply with drawing E-103.

(c) For the purposes of NEC 225.19 and 230.24, a residential patio cover, that is not over one story and not over twelve feet in height and is used only for recreation or outdoor living purposes and not as a carport, garage, storage room or habitable room as described in Appendix Chapter 1 in the IBC and Appendix Chapter H in the IRC, is not considered a roof. Overhead conductor spans must maintain a minimum 900 mm (36") clearance above these covers.







Service Mast Installation Details (Per Note 6)

Drawing E-103

Notes to drawings E-101, E-102, and E-103

- (1) An approved roof flashing must be installed on each mast where it passes through a roof. Plastic, nonhardening mastic must be placed between lead-type flashings and the conduit. Neoprene type flashings will also be permitted to be used.
- (2) Masts must be braced, secured, and supported in such a manner that no pressure from the attached conductors will be exerted on a roof flashing, meter base, or other enclosures.
- (3) Utilization of couplings for a mast ((are)) is permitted only below the point the mast is braced, secured, or supported. There must be a minimum of two means of support above any couplings used. A properly installed cable or stiff leg type support qualifies as one of the two required means of support.
- (4) Except as otherwise required by the serving utility, service mast support guys must be installed if the service drop attaches to the mast more than twenty-four inches above the roof line or if the service drop is greater than one hundred feet in length from the pole or support. Masts for support of other than service drops must comply with this requirement as well.

(5) Intermediate support masts must be installed in an approved manner with methods identical or equal to those required for service masts.

- (6) For altered services, where it is impractical to install U bolt mast supports due to interior walls remaining closed, it will be permissible to use other alternate mast support methods such as heavy gauge, galvanized, electrical channel material that is secured to two or more wooden studs with five-sixteenths inch diameter or larger galvanized lag bolts.
- (7) Conductors must extend at least eighteen inches from all mastheads to permit connection to the connecting overhead wiring.

040 Service conductors - two-family and multiple-occupancy buildings.

(5) Two-family and multiple-occupancy buildings. A second or additional service drop or lateral to a building having more than one occupancy will be permitted to be installed at a location separate from other service drops or laterals to the building provided that all the following conditions are complied with:

- (a) Each service drop or lateral must be sized in accordance with the NEC for the calculated load to be served by the conductors;

(b) Each service drop or lateral must terminate in listed metering/service equipment;

(c) Each occupant must have access to the occupant's service disconnecting means;

(d) No more than six service disconnects may be supplied from a single transformer;

(e) All service drops or laterals supplying a building must originate at the same transformer or power supply;

(f) A permanent identification plate must be placed at each service disconnect location that identifies all other service disconnect locations in or on the building, the area or units served by each, the total number of service disconnecting means on the building/structure and the area or units served. If a structure consists of multiple buildings (i.e., by virtue of fire separation), all service disconnects in or on the entire structure must be labeled to identify all service disconnects in or on the structure; and

(g) A permanent identification plate must be placed at each feeder disconnecting means identifying the area or units served if the feeder disconnecting means is remote from the area or unit served.

042 Service conductor - size and rating.

(6) If the service conductors have a lesser ampacity than the overcurrent protection permitted by NEC 230.90 or NEC 310.15, or the equipment rating that they terminate in or on, an identification plate showing the ampacity of the conductors must be installed on the service equipment.

043 Wiring methods for 600 volts, nominal or less.

(7) The installation of service conductors not exceeding 600 volts, nominal, within a building or structure is limited to the following methods: Galvanized or aluminum rigid metal conduit; galvanized intermediate metal conduit; wireways; busways; auxiliary gutters; ((rigid nonmetallic)) minimum schedule 40 rigid polyvinyl chloride conduit; cablebus; or mineral-insulated, metal-sheathed cable (type MI).

(8) Electrical metallic tubing must not be installed as the wiring method for service entrance conductors inside a building. Existing electrical metallic tubing, installed prior to October 1984, which is properly grounded and used for service entrance conductors may be permitted to remain if the conduit is installed in a nonaccessible location and is the proper size for the installed conductors.

(9) In addition to methods allowed in the NEC, the grounded service conductor is permitted to be identified with a yellow jacket or with one or more yellow stripes.

((062)) 070 Service equipment - ((general)) disconnecting means.

(10) In addition to the requirements of NEC 230.70(A), service equipment, subpanels, and similar electrical equipment must be installed so that they are readily accessible and may not be installed in ((bathrooms,)) clothes closets, toilet rooms, or shower rooms. All indoor service equipment and subpanel equipment must have adequate working space and be adequately illuminated.

(11) ((Temporary construction service equipment may only be used for construction purposes and must be disconnected when the permanent service is connected unless the department grants an extension of time.

070 Service disconnecting means.

((2))) The service disconnecting means must be installed at a readily accessible location in accordance with (a) or (b) of this subsection.

(a) Outside location: Service disconnecting means will be permitted on the building or structure or within sight and within fifteen feet of the building or structure served. The building disconnecting means may supply only one building/structure. The service disconnecting means must have an identification plate with one-half-inch high letters identifying:

(i) The building/structure served; and

(ii) Its function as the building/structure main service disconnect(s).

(b) Inside location: When the service disconnecting means is installed inside the building or structure, it must be located so that the service raceway extends no more than fifteen feet inside the building/structure.

095 Ground-fault protection of equipment.

((3))) ((12)) Equipment ground-fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. This test or a subsequent test must include all service voltage feeders. A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be provided for the inspector's records at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

200 Wiring methods exceeding 600 volts.

((4))) ((13)) The installation of service conductors exceeding 600 volts, nominal, within a building or structure must be limited to the following methods: Galvanized rigid metal conduit, galvanized intermediate metal conduit, schedule 80 ((rigid nonmetallic)) polyvinyl chloride conduit, metal-clad cable that is exposed for its entire length, cablebus, or busways.

((5))) ((14)) In addition to methods allowed in the NEC, the grounded service conductor is permitted to be identified with a yellow jacket or with one or more yellow stripes.

NEW SECTION

WAC 296-46B-240 Overcurrent protection.

024(F) Not located over steps.

If the overcurrent device is a part of a panelboard that is being repaired or replaced in an existing location, the installation is allowed to be made above the stairs.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-250 Wiring and protection—Grounding and bonding.

((032) Two or more buildings or structures.

((1)) Effective August 1, 2003, an equipment grounding conductor must be installed with the circuit conductors between buildings and/or structures. A grounded conductor

~~(i.e., neutral) is not permitted to be used in place of a separate equipment grounding conductor between buildings and/or structures.)~~ **028 (D)(3) Separately derived system with more than one enclosure.**

(1) NEC 250.28 (D)(3) is amended to read: Where a separately derived system supplies more than a single enclosure, the system bonding jumper for each enclosure shall be sized in accordance with 250.28 (D)(1) based on the largest ungrounded feeder/tap conductor serving that enclosure, or a single system bonding jumper shall be installed at the source and sized in accordance with 250.28 (D)(1) based on the equivalent size of the largest supply conductor determined by the largest sum of the areas of the corresponding conductors of each set.

052 Grounding electrodes.

(2) ~~((If a ground resistance test is not performed to ensure a resistance to ground of twenty-five ohms or less, two or more electrodes as specified in NEC 250.52 must be installed a minimum of six feet apart. However, a temporary construction service is not required to have more than one made electrode.)~~

(3)) If a concrete encased electrode is installed, inspection may be accomplished by the following methods:

(a) At the time of inspection of other work on the project, providing the concrete encased electrode is accessible for a visual inspection;

(b) At the time of the service inspection providing the installer has provided a method so the inspector can verify the continuity of the electrode conductor along its entire length (e.g., attaching a length of copper wire to one end of the electrode that reaches the location of the grounding electrode conductor that will enable the inspector to measure the resistance with a standard resistance tester). The concrete encased electrode does not have to be accessible for a visual inspection; or

(c) Other method when prior approval, on a job site basis, is given by the inspector.

If a special inspection trip is required to inspect a grounding electrode conductor, a trip fee will be charged for that inspection in addition to the normal permit fee.

056 Resistance of rod, pipe, and plate electrodes.

(3) ~~For rod, pipe and plate electrodes, if a ground resistance test is not performed to ensure a resistance to ground of twenty-five ohms or less, two or more electrodes as specified in NEC 250.52 must be installed a minimum of six feet apart. A temporary construction service is not required to have more than one made electrode.~~

(4) For services only, when multiple buildings or structures are located adjacent, but structurally separate from each other, any installed rod, pipe, or plate electrodes used for those services must be installed so that each building's or structure's electrodes are not less than 1.8 m (6 ft) apart from the adjacent building's or structure's electrodes.

068 Accessibility.

(5) ~~The termination point of a grounding electrode conductor tap to the grounding electrode conductor must be accessible unless the connection is made using an exothermic or irreversible compression connection.~~

090 Bonding.

~~((5))~~ (6) Metallic stubs or valves used in nonmetallic plumbing systems are not required to be bonded to the electrical system unless required by an electrical equipment manufacturer's instructions.

~~((6))~~ (7) Hot and cold water plumbing lines are not required to be bonded together if, at the time of inspection, the inspector can determine the lines are mechanically and electrically joined by one or more metallic mixing valves.

094 Bonding for other systems.

(8) NEC 250.94 is not adopted.

(9) An accessible means external to enclosures for connecting intersystem bonding and grounding electrode conductors must be provided at the service equipment and at the disconnecting means for any additional buildings or structures by at least one of the following means:

- (a) Exposed nonflexible metallic raceways;
- (b) Exposed grounding electrode conductor or electrode;
- (c) Approved means for the external connection of a copper or other corrosion-resistant bonding or grounding conductor to the grounded raceway or equipment.

104(B) Bonding - other metal piping.

(10) For flexible metal gas piping, installed new or extended from an existing rigid metal piping system, either:

(a) Provide a copy of the manufacturer's bonding instructions to the inspector at the time of inspection and follow those instructions; or

(b) The bonding conductor for the gas system must:

- (i) Be a minimum 6 AWG copper; and
- (ii) Terminate at:

(A) An accessible location at the gas meter end of the gas piping system on either a solid iron gas pipe or a cast flexible gas piping fitting using a listed grounding connector; and

(B) Either the service equipment enclosure, service grounding electrode conductor or electrode, or neutral conductor bus in the service enclosure.

184 Solidly grounded neutral systems over 1 kV.

~~((7))~~ (11) In addition to the requirements of NEC 250.184(A), the following applies for:

(a) Existing installations.

(i) The use of a concentric shield will be allowed for use as a neutral conductor for extension, replacement, or repair, if all of the following are complied with:

(A) The existing system uses the concentric shield as a neutral conductor;

(B) Each individual conductor contains a separate concentric shield sized to no less than thirty-three and one-half percent of the ampacity of the phase conductor for three-phase systems or one hundred percent of the ampacity of the phase conductor for single-phase systems;

(C) The new or replacement cable's concentric shield is enclosed inside an outer insulating jacket; and

(D) Existing cable (i.e., existing cable installed directly in the circuit between the work and the circuit's overcurrent device) successfully passes the following tests:

- A cable maintenance high potential dielectric test. The test must be performed in accordance with the cable manufacturer's instruction or the 2001 NETA maintenance test specifications; and

- A resistance test of the cable shield. Resistance must be based on the type, size, and length of the conductor used as the cable shield using the conductor properties described in NEC Table 8 Conductor Properties.

An electrical engineer must provide a specific certification to the electrical plan review supervisor in writing that the test results of the maintenance high potential dielectric test and the resistance test have been reviewed by the electrical engineer and that the cable shield is appropriate for the installation. The electrical engineer must stamp the certification document with the engineer's stamp and signature. The document may be in the form of a letter or electrical plans.

Testing results are valid for a period of seven years from the date of testing. Cable will not be required to be tested at a shorter interval.

(ii) A concentric shield used as a neutral conductor in a multigrounded system fulfills the requirements of an equipment grounding conductor.

(b) New installations.

(i) New installations do not include extensions of existing circuits.

(ii) The use of the concentric shield will not be allowed for use as a neutral conductor for new installations. A listed separate neutral conductor meeting the requirements of NEC 250.184(A) must be installed.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-300 Wiring methods and materials— Wiring methods.

001 Wiring methods.

(1) Cables and raceways for telecommunications, power limited, NEC Class 2 and Class 3 conductors must be installed in compliance with Chapter 3 NEC unless other methods are specifically allowed or required elsewhere in the NEC, chapter 19.28 RCW, or this chapter.

005 Underground installations.

(2) Induction loops.

See WAC ((296-46B-901(23))) 296-46B-010(17) for induction detection loops that are made in a public roadway and regulated by a governmental agency.

Other induction loops must comply with the following requirements:

(a) General:

(i) A preformed direct burial induction loop is designed to be installed within the road surface base (e.g., concrete or asphalt) or below the road surface of a road with an unpaved surface (e.g., gravel or brick pavers);

(ii) A saw-cut induction detection loop is designed to be installed into a groove saw-cut into an existing paved road surface (e.g., concrete or asphalt);

(iii) The loop system includes the loop and the lead-in conductor;

(iv) The loop system must be:

(A) Tested to assure that at 500 volts DC, the resistance between the conductor and ground equals or exceeds 50 megohms; and

(B) Without splice; or

(C) If spliced, the splice must be soldered and appropriately insulated;

(v) The lead-in conductor must comply with the following:

(A) Must be stranded and have a lay (i.e., twist) of two turns per foot; and

(B) If installed in an electrical raceway;

• Are not required to be listed or suitable for wet locations; and

• Must have a burial cover of at least 6"; or

(C) If direct buried;

• Must be listed for the use; and

• Must have a burial cover of at least 18".

(b) Preformed direct burial induction detection loops must conform with the following:

(i) The loop conductor must be rated for direct burial and be a minimum of No. 16 AWG;

(ii) The loop design must not allow movement of the loop conductor within the outer jacket. The outer jacket containing the loop conductor is not required to be listed;

(iii) The loop yoke casing (i.e., the location where the lead-in conductor is connected to the loop):

(A) Includes any device used to house the "loop to lead-in splice" or to otherwise couple the loop with the lead-in electrical raceway;

(B) Is not required to be listed; and

(C) Must have a coupler that will create a waterproof bond with the electrical raceway, containing the lead-in conductor, or a direct buried lead-in conductor.

(c) Saw-cut induction detection loops:

(i) The loop conductor must be cross-linked polyethylene or EPR Type USE insulation and be a minimum of No. 18 AWG stranded;

(ii) The saw-cut groove must not cut into rebar installed within the roadway.

011 Support of raceways, cables, or boxes in suspended ceilings.

(3) NEC power limited, Class 2, and Class 3 cables must be secured in compliance with NEC 334.30 and must be secured to boxes in compliance with NEC 314.17.

(4) Telecommunications cables must be secured in a manner that will not cause damage to the cables and at intervals not exceeding five feet. Cables are considered adequately supported when run through holes in building structural elements or other supporting elements. Telecommunications cables may be fished into inaccessible hollow spaces of finished buildings. Clamps or fittings are not required where telecommunications cables enter boxes.

(5) Optical fiber cables must be secured in a manner that will not cause damage to the cables and at intervals not exceeding five feet. Cables are considered adequately supported when run through holes in building structural elements or other supporting elements. Optical fiber cables may be fished into inaccessible hollow spaces of finished buildings. Supports must allow a bending radius that will not cause damage to the cables.

(6) Where not restricted by the building code official or Article 300 NEC, the wires required in NEC 300.11(A) may support raceways, cables, or boxes under the following conditions:

(a) Raceways and/or cables are not larger than three-quarter-inch trade size;

(b) No more than two raceways or cables are supported by a support wire. The two-cable limitation does not apply to telecommunications cables, Class 2 cables, or Class 3 cables on support wires installed exclusively for such cables. The support wire must be adequate to carry the cable(s) weight and all attached cables must be secured with approved fittings; or

(c) Raceways and cables are secured to the support wires by fittings designed and manufactured for the purpose.

In addition to (a), (b), and (c) of this subsection, the following conditions must be complied with:

(d) The support wires are minimum #12 AWG and are securely fastened to the structural ceiling and to the ceiling grid system; and

(e) The raceways or cables serve equipment that is located within the ceiling cavity or is mounted on or supported by the ceiling grid system. Telecommunications cables, Class 2 cables, or Class 3 cables supported as required by this section, may pass through ceiling cavities without serving equipment mounted on or supported by the ceiling grid system.

017 Conductors in raceway.

(7) Cables will be permitted in all raceway systems if:

(a) The cable is appropriate for the environment; and

(b) The percentage fill does not exceed that allowed in NEC Chapter 9, Table 1.

AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-334 Wiring methods and materials—Nonmetallic-sheathed cable.

010 Nonmetallic-sheathed cable.

(1) The building classification, for subsections (2), (3), and (4) of this section, will be as determined by the building official. For the purposes of this section, Type III, IV and V may be as defined in the International Building Code adopted in the state of Washington. The installer must provide the inspector documentation substantiating the type of building construction and finish material rating(s) prior to any electrical inspection.

(2) This section replaces NEC 334.10(2). In multifamily dwellings, Type NM, Type NMC, and Type NMS cable(s) may be used in structures of Types III, IV, and V construction except as prohibited in NEC 334.12.

(3) This section replaces NEC 334.10(3). In all other structures, Type NM, Type NMC, and Type NMS cable(s) may be used in structures of Types III, IV, and V construction except as prohibited in NEC 334.12. All cable(s) must be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating as identified in listings of fire-rated assemblies.

(4) This section replaces NEC 334.10(4). Cable trays in structures of Types III, IV, and V construction, where the cable(s) is identified for the use, except as prohibited in NEC 334.12.

015 Exposed work.

(5) Where Type NMC cable is installed in shallow chases in plaster, masonry, concrete, adobe or similar material, the cable must be protected against nails or screws by:

(a) A steel plate at least 1.59 mm (1/16 in.) thick and covered with plaster, adobe, or similar finish; or

(b) Being recessed in a chase at least 6.985 cm (2 3/4 in.) deep, as measured from the finished surface, and covered with plaster, adobe, or similar finish. The cable(s) must be at least 6.35 mm (2 1/2 in.) from the finished surface.

(6) The requirements for nonmetallic sheathed cable protection in NEC 334.15(C) do not apply in crawl spaces.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-358 Wiring methods and materials—Electrical metallic tubing.

012 Electrical metallic tubing.

(1) In addition to complying with the provisions of Article 358 NEC, electrical metallic tubing may not be installed in direct contact with the earth or in concrete on or below grade. Also see NEC 300.6 for resistance to corrosion.

(2) Where electrical metallic tubing is installed in wet locations, an equipment grounding conductor must be provided within the raceway and sized per NEC 250.122.

AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-410 Equipment for general use—Luminaires.

((004)) 010 Luminaires.

(1) All luminaires within an enclosed shower area or within five feet of the waterline of a bathtub must be enclosed, unless specifically listed for such use; these luminaires, with exposed metal parts that are grounded, must be ground fault circuit interrupter protected.

((018)) Exposed luminaire (fixture) parts.

~~(2) Replacement luminaires that are directly wired or attached to boxes supplied by wiring methods that do not provide a ready means for grounding and that have exposed conductive parts will be permitted only where the luminaires are provided with ground fault circuit interrupter protection and marked "no equipment ground."~~

030 Flexible cord connection of electric discharge luminaires.

~~((02)) (2) A ground-type attachment plug cap and receptacle connection at the source junction box is not required when the flexible cord complies with NEC 410.30 and the following:~~

(a) Connection to a source junction box must utilize an approved cable connector or clamp;

(b) The maximum length of the cord for a suspended pendant drop from a permanently installed junction box to a suitable tension take-up device above the pendant luminaire must not exceed six feet;

(c) The flexible cord must be supported at each end with an approved cord grip or strain relief connector fitting/device that will eliminate all stress on the conductor connections;

- (d) The flexible cord must be a minimum #14 AWG copper;
- (e) The flexible cord ampacity must be determined in NEC Table 400.5(A) column A;
- (f) The flexible cord must be hard or extra hard usage; and
- (g) A vertical flexible cord supplying electric discharge luminaires must be secured to the luminaire support as per NEC 334.30(A).

042 Exposed luminaire (fixture) parts.

(3) Replacement luminaires that are directly wired or attached to boxes supplied by wiring methods that do not provide a ready means for grounding and that have exposed conductive parts will be permitted only where the luminaires are provided with ground-fault circuit-interrupter protection and marked "no equipment ground."

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-430 Motors, motor circuits, and controllers.

007 Marking on motors and multimotor equipment.

Except as required by the National Electrical Code, there is no requirement for motors to be identified for use or listed/field evaluated by a laboratory. All motors must be manufactured according to National Electrical Manufacturer's Association (NEMA) standards for motors except motors that:

- (1) Are a component part of equipment listed or field evaluated by a laboratory; or
- (2) Are a component part of industrial utilization equipment approved by the department per WAC ((~~296-46B-901~~) 296-46B-903).

NEW SECTION

WAC 295-46B-445 Wind driven generator equipment. This equipment includes alternators or generators that produce electrical current through the conversion of wind energy into electrical energy. Wind driven generation equipment must demonstrate conformance to applicable safety standards recognized by the department.

Installation.

(1) A wind driven generator system design review must be submitted at the time of the inspection request. Permit holders must submit a copy of the wind driven generator equipment manufacturer's installation information and a legible one-line diagram of the wind driven generator design and calculations used to determine voltage and current within the generation system to the electrical inspector. This diagram must show the wind driven generator equipment, devices, overcurrent protection, conductor sizing, grounding, ground fault protection if required, and any system interconnection points.

(2) For utility interactive systems, any person making interconnections between the generator system and the utility distribution network must consult the serving utility and is required to meet all additional utility standards.

(3) All wind driven generator equipment and disconnecting means must be permanently identified as to their purpose,

maximum voltages and type of current within the system with an identification plate.

NEW SECTION

WAC 296-46B-500 Hazardous (classified) locations, Classes I, II, and III, Divisions 1 and 2.

005 Classification of locations.

Classification of locations may only be done by the authority having jurisdiction or a professional engineer registered in Washington who uses appropriate National Fire Protection Standards as a basis for classification. The authority having jurisdiction is allowed to make the final determination in cases of conflict.

NEW SECTION

WAC 296-46B-505 Class I, Zone 0, 1, and 2 locations.

007 Implementation of zone classification.

For the purposes of NEC 505.7, qualified person means a professional engineer registered in Washington.

NEW SECTION

WAC 296-46B-513 Special occupancies—Aircraft hangers.

001 Scope.

The scope for NEC 513 applies only when the property containing the building is classified or zoned as an aircraft hanger by the authority having jurisdiction.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-517 Special occupancies—Health care facilities.

001 Health care facilities.

In health care facilities, the following methods must be used to determine adequate capacity and ratings of equipment providing electrical power for the essential electrical systems defined in Article 517 NEC:

(1) Systems in new facilities:

(a) Emergency system: The emergency branch must consist of two branches known as:

(i) Life safety system: The feeder conductors and equipment used to supply electrical power to the life safety branch must be determined by summation of the connected loads as determined by Article 220 NEC and may not be subjected to any reduction due to the diversity of the loads. Feeder and equipment will be subject to a one hundred twenty-five percent multiplier for continuous loads in accordance with Article 220 NEC.

(ii) Critical branch system: The feeder conductors and equipment must be calculated in accordance with Article 220 NEC, including a level of diversity as determined by such article.

(b) Equipment branch: The feeder conductors and equipment used to supply electrical power to the equipment branch of the essential electrical system must be calculated in accordance with Article 220 NEC, including a level of diversity as determined by such article.

(c) Generator sizing: The rating of the generator(s) supplying electrical power to the essential system of a health care facility must meet or exceed the summation of the loads determined in (a) and (b) of this subsection with no additional demand factors applied. Momentary X-ray loads may be ignored if the generator is rated at least three hundred percent of the largest momentary X-ray load connected.

(2) Existing essential systems in facilities to which additional load is to be added:

(a) Existing loads: The existing loads of the separate branches of the essential electrical system may be determined by WAC ((~~296-46B-901(15)(j))~~) 296-46B-900 (3)(j).

(b) Added loads: Added loads to the separate branches of the essential electrical system must be determined by subsection (1) of this section.

(c) Generator sizing: The rating of the generator(s) supplying electrical power to the essential electrical system must meet or exceed the summation of the loads determined by (a) and (b) of this subsection with no additional demand factors applied.

NEW SECTION

WAC 296-46B-547 Special occupancies—Agricultural buildings.

001 Scope.

NEC 547 requirements apply only when the agricultural building is greater than 1,000 square feet and is used as part of a business or commercial farming activity.

AMENDATORY SECTION (Amending WSR 06-05-028, filed 2/7/06, effective 5/1/06)

WAC 296-46B-555 Special occupancies—Marinas and boatyards. (1) For the purposes of NEC 555.1, the scope of work includes private, noncommercial docking facilities.

(2) For the purposes of NEC 555.5, transformer terminations must be located a minimum of twelve inches above the deck of a dock (datum plane requirements do not apply for this section).

(3) For the purposes of NEC 555.7, adjacent means within sight.

(4) For the purposes of NEC 555.9, all electrical connections must be installed a minimum of twelve inches above the deck of a pier unless the connections are approved for wet locations (datum plane requirements do not apply for this section).

(5) For the purposes of NEC 555.10, all enclosures must be corrosion resistant. All gasketed enclosures must be arranged with a weep hole to discharge condensation.

(6) For the purposes of NEC 555.11, gasketed enclosures are only required for wet locations.

(7) For the purposes of NEC 555.13, the following wiring methods are allowed:

(a) All wiring installed in a damp or wet location must be suitable for wet locations.

(b) Extra-hard usage portable power cables rated not less than 75°C, 600 volts, listed for wet locations and sunlight resistance and having an outer jacket rated for the environment are permitted. Portable power cables are permitted as a

permanent wiring method under or within docks and piers or where provided with physical protection. The requirements of NEC 555.13 (B)(4)(b) do not apply.

(c) Overhead wiring must be installed at the perimeter of areas where boats are moored, stored, moved, or serviced to avoid possible contact with masts and other parts of boats.

(d) For the purposes of NEC 555.13 (B)(5), the wiring methods of Chapter 3 NEC will be permitted.

(8) For the purposes of NEC 555.19, receptacles must be mounted not less than twelve inches above the deck surface of the pier or dock (datum plane requirements do not apply for this section). Shore power receptacles that provide shore power for boats must be rated not less than 20 amperes and must be single outlet type and must be of the locking and grounding type or pin and sleeve type.

(9) For the purposes of NEC ((~~555.21~~, electrical wiring and equipment located at or serving dispensing stations must comply with Article 514 NEC in addition to the requirements of this section.

(a) Boundary classifications.

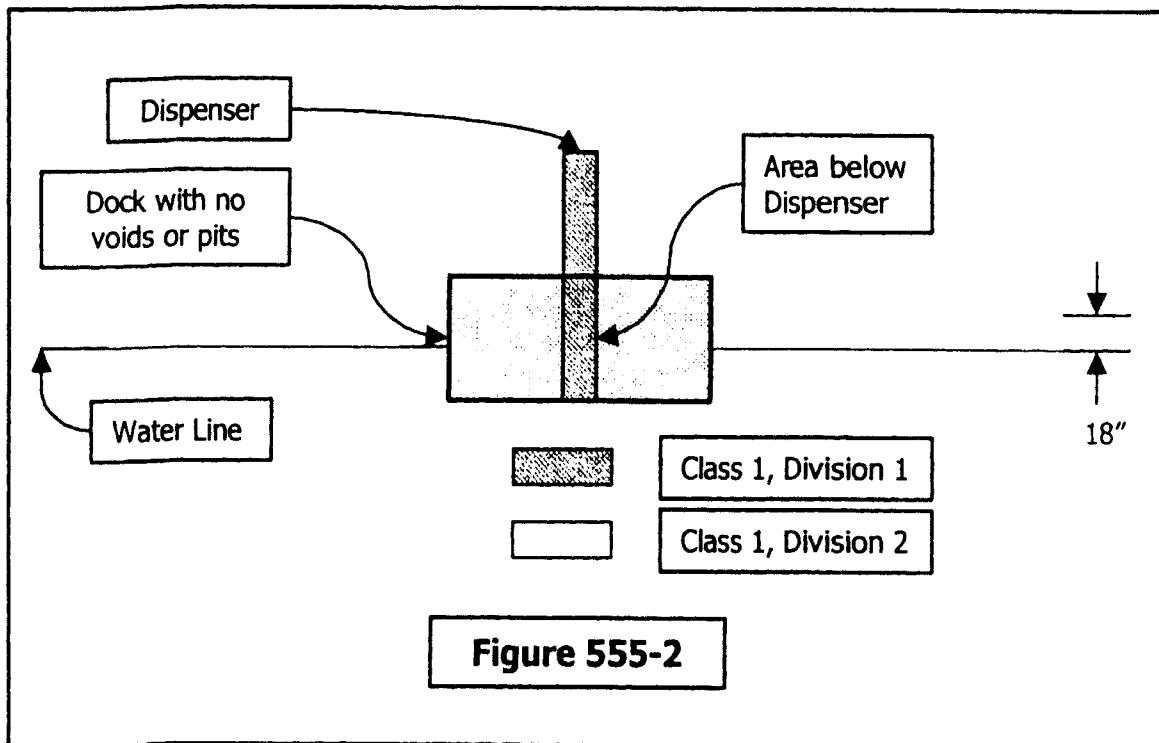
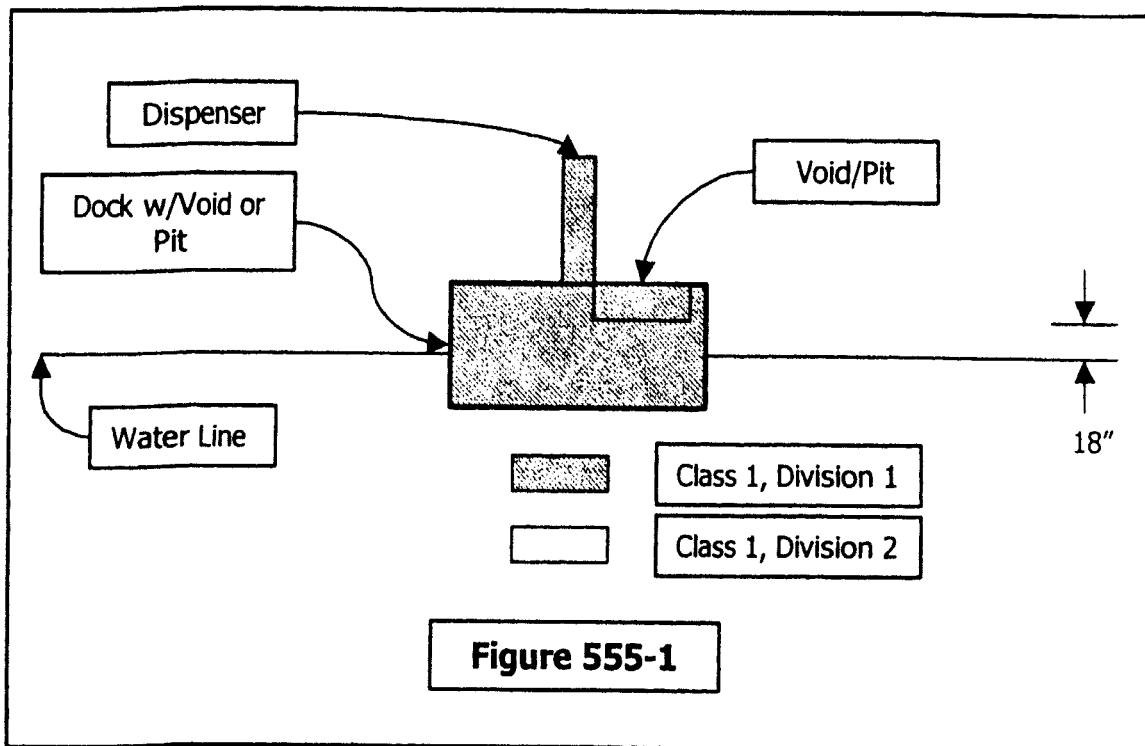
~~(i) Class I, Division 1. The area under the dispensing unit is a Class I, Division 1 location. If a dock has one or more voids, pits, vaults, boxes, depressions, or similar spaces where flammable liquid or vapor can accumulate below the dock surface and within twenty feet horizontally of the dispensing unit, then the area below the top of the dock and within twenty feet horizontally of the dispensing unit is a Class I, Division 1 location. See Figure 555-1.~~

~~(ii) Class I, Division 2. The area eighteen inches above the water line and within twenty feet horizontally of the dispensing unit is a Class I, Division 2 location. If a dock has one or more voids, pits, vaults, boxes, depressions, or similar spaces where flammable liquid or vapor can accumulate below the dock surface and within twenty feet horizontally of the dispensing unit, then the area to eighteen inches above the top and adjacent to the sides of the dock and within twenty feet horizontally of the dispensing unit is a Class I, Division 2 location. See Figure 555-2.~~

~~(b) Portable power cable will be allowed as a permanent wiring method in Class I, Division 2 locations when protected from physical damage.~~

~~(10) For the purposes of NEC 555.23, the datum plane requirements do not apply)) 555.21 (B)(1), delete exception No. 1 and No. 2 and replace with:~~

~~Dock, pier, or wharf sections that do not support fuel dispensers and may abut a section(s) that supports a fuel dispenser(s) are permitted to be unclassified where documented air space between the sections is provided and where flammable liquids or vapors cannot travel to these sections. See NEC 500.4(A) for documentation requirements.~~



AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-590 Special occupancies—Temporary installations.

001 Temporary installations.

(1) For the purposes of this section, any circuit used for construction purposes is considered to be temporary.

003 Temporary installations - time constraints.

(2) Temporary construction service equipment may only be used for construction purposes and must be disconnected when the permanent service is connected unless the department grants an extension of time.

004 Temporary installations - splices.

((2)) (3) A splice or junction box is required for all wiring splice or junction connections in a temporary installation.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-600 Special equipment—Electric signs and outline lighting.

001 Electrical signs - general.

(1) All electrical signs within the scope of UL Standard 48, the electrical sign standard, must be listed. All electrical signs outside the scope of UL Standard 48 will be inspected for compliance with the NEC.

((009 Awning electrical signs.))

(2) Luminaires in outdoor awnings must be suitable for wet locations and be connected by a wiring method suitable for wet locations.

(3) Fluorescent luminaires must be located at least six inches from the awning fabric. Incandescent lamps or luminaires must be located at least eighteen inches from the awning fabric. A disconnecting means must be installed per Article 600 NEC.

(4) Listed awning signs must be installed in compliance with the manufacturer's instructions and the NEC.

010 Portable or mobile outdoor electrical signs.

(5) A weatherproof receptacle outlet that is weatherproof with the supply cord connected must be installed within six feet of each electrical sign.

(6) Extension cords are not permitted to supply portable outdoor signs.

(7) All portable outdoor electrical signs must be listed or field evaluated by a laboratory accredited by the department.

030 Neon tubing.

(8) NEC 600, Part II, Field-Installed Skeleton Tubing, will apply to all neon tubing and neon circuit conductors.

NEW SECTION

WAC 296-46B-645 Information technology equipment.

017 Power distribution units.

Power distribution units that are used for information technology equipment will be permitted to have multiple panelboards with a single cabinet, provided that the power distribution unit is utilization equipment listed for information technology application.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-680 Special equipment—Swimming pools, fountains and similar installations.

001 General.

(1) Package spa or hot tubs. Electrical heating, pumping, filtering, and/or control equipment installed within five feet of a spa or hot tub must be listed or field evaluated as a package with the spa or hot tub.

(2) A factory assembled skid pack of electrical heating, pumping, filtering, and/or control equipment (skid pack) must be installed more than five feet from a spa or hot tub and shall be listed as a package unit.

(3) The maintenance disconnect and field installed, listed electrical equipment for a hot tub, spa, or swim spa must be located at least five feet from the hot tub, spa or swim spa. Field installed listed equipment must meet the following additional requirements:

(a) The heater is listed as a "spa heater or swimming pool heater";

(b) The pump is listed as a "spa pump" or "swimming pool/spa pump" (the pump may be combined with a filter assembly); and

(c) Other listed equipment such as panelboards, conduit, and wire are suitable for the environment and comply with the applicable codes.

(4) Field installed, listed electrical equipment for a swimming pool must be located at least five feet from the swimming pool. Field installed listed equipment must meet the following additional requirements:

(a) The heater must be listed as a "swimming pool heater or a spa heater";

(b) The pump must be listed as a "swimming pool pump" or "spa pump" or "swimming pool/spa pump"; and

(c) Other equipment such as panelboards, conduit, and wire must be suitable for the environment and comply with the applicable codes.

The five-foot separation may be reduced by the installation of a permanent barrier, such as a solid wall, fixed glass windows or doors, etc. The five-foot separation will be determined by the shortest path or route that a cord can travel from the spa, hot tub, swim spa, or swimming pool to an object.

(5) The field assembly or installation of "recognized components" will not be permitted.

(6) Hydromassage bathtubs must be listed as a unit and bear a listing mark which reads "hydromassage bathtub."

(7) Manufacturers' instructions must be followed as part of the listing requirements.

(8) Electrical components which have failed and require replacement must be replaced with identical products unless the replacement part is no longer available; in which case, a like-in-kind product may be substituted provided the mechanical and grounding integrity of the equipment is maintained.

(9) Cut-away-type display models may not be sold for other than display purposes and are not expected to bear a listing mark.

025 Feeders.

(10) NEC 680.25(A) is amended to read: A feeder between the service equipment and the remote panelboard is

permitted to run in flexible metal conduit, an approved cable assembly that includes an equipment grounding conductor within its outer sheath (the equipment grounding conductor must comply with NEC 250.24 (A)(5)), rigid metal conduit, intermediate metal conduit, liquidtight flexible nonmetallic conduit, rigid polyvinyl chloride conduit, reinforced thermosetting resin conduit, electrical metallic tubing (when installed on or within a building or crawl space), and electrical nonmetallic tubing (when installed within a building or crawl space). Aluminum conduit is not permitted.

040 Spas and hot tubs.

((10)) (11) NEC 680.42(C) will apply for interior and exterior wiring to outdoor installations of spas and hot tubs.

NEW SECTION

WAC 296-46B-690 Solar photovoltaic systems.

002 Definitions.

(1) Photovoltaic system. The photovoltaic system may conduct alternating current, direct current, or both and will comprise all interconnected circuits to the point of connection with the building distribution circuits or utility service conductors.

(2) Support structure, foundation, and tracker. For the purposes of this section, those portions of the array or tracker that are exclusively mechanical and are built specifically for the purpose of physically supporting the modules or panels will not be considered part of the photovoltaic system as defined by this article.

004 Installation.

(3) A photovoltaic system design review must be submitted at the time of the inspection request. Permit holders must submit, to the electrical authority having jurisdiction, copies of the photovoltaic equipment manufacturer's installation information, accompanied by a legible one-line diagram of the photovoltaic design and calculations used to determine voltage and current within the photovoltaic system. This diagram must show the photovoltaic equipment, devices, overcurrent protection, conductor sizing, grounding, ground fault protection if required, and any system interconnection points.

(4) For utility interactive systems, persons making interconnections between solar photovoltaic system and the utility distribution network must consult the serving utility and are required to meet all additional utility standards.

007 Maximum voltage.

(5) The open-circuit voltage temperature coefficients supplied in the instructions of listed photovoltaic modules will be used to determine the maximum direct current photovoltaic system voltage. Otherwise the voltage will be calculated using Table 690.7 of the NEC. For the purposes of this calculation, a temperature correction factor of 1.25 will be used unless another factor can be justified and is approved by the authority having jurisdiction.

053 Direct-current photovoltaic power source.

(6) All photovoltaic equipment and disconnecting means must be permanently identified as to their purpose, maximum voltages, and type of current within the system with an identification plate. All photovoltaic circuits must be identified at each overcurrent protection device(s) and panel directory(ies).

(7) Required "WARNING" labels as specified by NEC 690 are required to be an identification plate on or immediately adjacent to the pertinent equipment.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-700 Emergency systems.

001 Emergency systems - general.

(1) In all health or personal care facilities defined in this chapter, educational facilities, institutional facilities, hotels, motels, and places of assembly for one hundred or more persons, all exit and emergency lights must be installed in accordance with Article 700 NEC and located as required in standards adopted by the state building code council under chapter 19.27 RCW.

008 Signs.

((2)) (3) The sign(s) required in NEC 700.8 must be placed at the service disconnecting means and the meter base if the service disconnecting means and meter base are not located within sight and within 5' of each other.

009 Emergency systems - equipment identification.

((3)) (4) All exit and emergency lights, whether or not required by the NEC, must be installed in accordance with Article 700 NEC.

((3)) (4) All boxes and enclosures, for Article 700 NEC systems, larger than six inches by six inches, including transfer switches, generators, and power panels for emergency systems and circuits must be permanently identified with an identification plate that is substantially orange in color, except in existing health care facilities the existing nameplate identification color scheme can be retained for transfer switches, generators, and power panels for existing emergency systems that are not being replaced or modified. All other device and junction boxes for emergency systems and circuits must be substantially orange in color, both inside and outside.

027 Coordination.

((4)) (5) The requirements for selective coordination described in NEC 700.27 are not required where the emergency system was installed prior to June 1, 2006. For new emergency systems that are supplied from an existing emergency system installed prior to June 1, 2006, the new portion of the emergency system must comply with NEC 700.27. The ground fault sensing function of overcurrent protective devices will only be required to selectively coordinate with the ground fault sensing functions of other overcurrent protective devices.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-701 Legally required standby systems.

008 Signs.

((1)) The sign(s) required in NEC 701.8 must be placed at the service disconnecting means and the meter base if the service disconnecting means and meter base are not located within sight and within 5' of each other.

018 Coordination.

(2) The requirements for selective coordination described in NEC 701.18 are not required where the legally required standby system was installed prior to June 1, 2006. For new legally required standby systems that are supplied from an existing legally required standby system installed prior to June 1, 2006, the new portion of the legally required standby system must comply with NEC 701.18. The ground fault sensing function of overcurrent protective devices will only be required to selectively coordinate with the ground fault sensing functions of other overcurrent protective devices.

NEW SECTION**WAC 246-46B-702 Optional standby systems.****008 Signs.**

The sign(s) required in NEC 702.8 must be placed at the service disconnecting means and the meter base if the service disconnecting means and meter base are not located within sight and within 5' of each other.

PART B - ELECTRICAL PLAN REVIEW

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-900 Electrical ((work permits and fees)) plan review. ((General))

(1) When an electrical work permit is required by chapter 19.28 RCW or this chapter, inspections may not be made; equipment must not be energized, or services connected unless:

(a) A valid electrical work permit is completely and legibly filled out and readily available;

(b) The classification or type of facility to be inspected and the exact scope and location of the electrical work to be performed are clearly shown on the electrical work permit;

(c) The address where the inspection is to be made is clearly identifiable from the street, road or highway that serves the premises; and

(d) Driving directions are provided for the inspectors' use.

(2) An electrical work permit is valid for only one specific site address.

(3) Except as provided in subsection (8) of this section, a valid electrical work permit must be posted on the job site at a readily accessible and conspicuous location prior to beginning electrical work and at all times until the electrical inspection process is completed.

Permit responsibility for.

(4) Each person, firm, partnership, corporation, or other entity must furnish a valid electrical work permit for the installation, alteration, or other electrical work performed or to be performed solely by that entity. When the permitted work is performed solely or in part by another entity, the electrical work permit purchaser must request approval from the chief electrical inspector to take responsibility for the work of the original installing entity. Each electrical work permit application must be signed by the electrical contractor's administrator (or designee) or the person, or authorized representative of the firm, partnership, corporation, or other

entity that is performing the electrical installation or alteration. Permits purchased electronically do not require a hand-written signature. An entity designated to sign electrical permits must provide written authorization of the purchaser's designation when requested by the department.

(5) Permits to be obtained by customers. Whenever a serving electrical utility performs work for a customer under one of the exemptions in WAC 296-46B-925 and the work is subject to inspection, the customer is responsible for obtaining all required permits.

(6) Except for emergency repairs to existing electrical systems, electrical work permits must be obtained and posted at the job site prior to beginning the installation or alteration. An electrical work permit for emergency repairs to existing electrical systems must be obtained and posted at the job site no later than the next business day after the work is begun.

(7) Fees must be paid in accordance with the inspection fee schedule, WAC 296-46B-905. The amount of the fee due is calculated based on the fee effective at the date payment is made. If the project is required to have an electrical plan review, the plan review fees will be based on the fees effective at the date the plans are received by the department for review.

Permit requirements for.

(8) As required by chapter 19.28 RCW or this chapter, an electrical work permit is required for the installation, alteration, or maintenance of all electrical systems or equipment except for:

(a) Travel trailers;

(b) Class A basic electrical work which includes:

(i) The like in kind replacement of a: Contactor, relay, timer, starter, circuit board, or similar control component; household appliance; circuit breaker; fuse; residential luminaire; lamp; snap switch; dimmer; receptacle outlet; thermostat; heating element; luminaire ballast with an exact same ballast; component(s) of electric signs, outline lighting, skeleton neon tubing when replaced on site by an appropriate electrical contractor and when the sign, outline lighting or skeleton neon tubing electrical system is not modified; ten horsepower or smaller motor;

(ii) Induction detection loops described in WAC 296-46B-300(2) and used to control gate access devices;

(iii) Heat cable repair; and

(iv) Embedding premanufactured heat mats in tile grout where the mat is listed by an approved testing laboratory and comes from the manufacturer with preconnected lead-in conductors. All listing marks and lead-in conductor labels must be left intact and visible for evaluation and inspection by the installing electrician and the electrical inspector.

Unless specifically noted, the exemptions listed do not include: The replacement of an equipment unit, assembly, or enclosure that contains an exempted component or combination of components (e.g., an electrical furnace/heat pump, industrial milling machine, etc.) or any appliance/equipment described in this section for Class B permits.

A provisional electrical work permit label may be posted in lieu of an electrical work permit. If a provisional electrical work permit label is used, an electrical work permit must be obtained within two working days after posting the provisional electrical work permit label.

(9) An electrical work permit is required for all installations of telecommunications systems on the customer side of the network demarcation point for projects greater than ten telecommunications outlets. All backbone installations regardless of size and all telecommunications cable or equipment installations involving penetrations of fire barriers or passing through hazardous locations require permits and inspections. For the purposes of determining the inspection threshold for telecommunications projects greater than ten outlets, the following will apply:

(a) An outlet is the combination of jacks and mounting hardware for those jacks, along with the associated cable and telecommunications closet terminations, that serve one workstation. In counting outlets to determine the inspection threshold, one outlet must not be associated with more than six standard four pair cables or more than one twenty-five pair cable. Therefore, installations of greater than sixty standard four pair cables or ten standard twenty-five pair cables require permits and inspections. (It is not the intent of the statute to allow large masses of cables to be run to workstations or spaces serving telecommunications equipment without inspection. Proper cable support and proper loading of building structural elements are safety concerns. When considering total associated cables, the telecommunications availability at one workstation may count as more than one outlet.)

(b) The installation of greater than ten outlets and the associated cables along any horizontal pathway from a telecommunications closet to work areas during any continuous ninety day period requires a permit and inspection.

(c) All telecommunications installations within the residential dwelling units of single family, duplex, and multi-family dwellings do not require permits or inspections. In residential multifamily dwellings, permits and inspections are required for all backbone installations, all fire barrier penetrations, and installations of greater than ten outlets in common areas.

(d) No permits or inspections are required for installation or replacement of cord and plug connected telecommunications equipment or for patch cord and jumper cross connected equipment.

(e) Definitions of telecommunications technical terms will come from chapter 19.28 RCW, this chapter, TIA/EIA standards, and NEC.

Permit inspection and approval.

(10) Requests for inspections.

(a) Requests for inspections must be made no later than three business days after completion of the electrical/telecommunications installation or one business day after any part of the installation has been energized, whichever occurs first.

(b) Requests for after hours or weekend inspections must be made by contacting the local electrical inspection supervisor at least three working days prior to the requested date of inspection. The portal to portal inspection fees required for after hours or weekend inspections are in addition to the cost of the original electrical work permit.

(c) Emergency requests to inspect repairs necessary to preserve life and equipment safety may be requested at any time.

(d) Inspections for annual electrical maintenance permits and annual telecommunications permits may be done on a regular schedule arranged by the permit holder with the department.

(11) Final inspection approval will not be made until all inspection fees are paid in full.

Permit duration/refunds.

(12) Electrical work permits will expire one year after the date of purchase unless electrical work is actively and consistently in progress and inspections requested. Refunds are not available for:

(a) Expired electrical work permits;

(b) Electrical work permits where the electrical installation has begun; or

(c) Any electrical work permit where an electrical inspection or electrical inspection request has been made.

Permit – annual telecommunications.

(13) The chief electrical inspector can allow annual permits for the inspection of telecommunications installations to be purchased by a building owner or licensed electrical/telecommunications contractor. The owner's full time telecommunications maintenance staff, or a licensed electrical/telecommunications contractor(s) can perform the work done under this annual permit. The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all the telecommunications work performed and the valid electrical or telecommunications contractor's license numbers for all contractors working under the permit.

Permit – annual electrical.

(14) The chief electrical inspector can allow annual permits for the inspection of electrical installations to be purchased by a building owner or licensed electrical contractor. This type of permit is available for commercial/industrial locations employing a full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor.

The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all electrical work performed.

This type of electrical permit may be used for retrofit, replacement, maintenance, repair, upgrade, and alterations to electrical systems at a single plant or building location. This type of permit does not include new or increased service or new square footage.

Provisional electrical work permit – use/duration/refunds.

(15) Only licensed electrical or telecommunications contractors can use provisional electrical work permits.

(16) If a provisional electrical work permit label is used, the following requirements must be met:

(a) Prior to beginning the work, the certified electrician or telecommunications worker performing the installation must affix the provisional electrical work permit label on the cover of the panelboard, overcurrent device, or telecommunications equipment supplying the circuit or equipment.

(b) The job site portion of the label must include the following:

(i) Date the work is begun;

(ii) Contractor's name;
 (iii) Contractor's license number; and
 (iv) Short description of the work.
 (e) The contractor portion of the label must include the following:

(i) Date the work is begun;
 (ii) Contractor's license number;
 (iii) Job site address;
 (iv) Owner's name; and
 (v) Short description of the work.

(d) The label must be filled in using sunlight and weather resistant ink.

(e) The contractor must return the contractor's portion of the label to the department of labor and industries, electrical section office having jurisdiction for the inspection, within two working days after the job site portion of the label is affixed. Either receipt by department of labor and industries or postmark to a valid department of labor and industries electrical address is acceptable for meeting this requirement.

(f) The contractor must return the contractor's portion of the label to the Department of Labor & Industries, Chief Electrical Inspector, within five working days after destroying or voiding any label.

(g) The contractor is responsible for safekeeping of all purchased labels.

(17) Refunds are not available for provisional electrical work permit labels.

(18) Provisional electrical work permit labels will be sold in blocks of twenty.

(19) Any contractor purchasing a provisional electrical work permit label may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

Class B electrical work permit use.

(20) The electrical contractor must return the contractor's portion of the Class B label to the department of labor and industries, chief electrical inspector, within five working days after destroying or voiding any label.

(21) The electrical contractor is responsible for safekeeping of all purchased Class B labels.

(22) Only licensed electrical/telecommunication contractors can use the Class B basic electrical inspection/random inspection process. Health care, large commercial, or industrial facilities using an employee who is a certified electrician(s) can use the Class B random electrical inspection process after permission from the chief electrical inspector.

(23) If the Class B random electrical inspection process is used, the following requirements must be met:

(a) The certified electrician/telecommunications worker performing the installation must affix a Class B installation label on the cover of the panelboard or overcurrent device supplying power to the circuit or equipment prior to beginning the work.

(b) The job site portion of the label must include the following:

(i) Date of the work;
 (ii) Electrical/telecommunication contractor's name;
 (iii) Electrical/telecommunication contractor's license number;

(iv) Installing electrician's certificate number, except for telecommunication work. For thermostat installations described in WAC 296-46B-965(15), the installing trainee may enter their training certificate number; and

(v) Short description of the work.

(c) The contractor portion of the label must include the following:

(i) Date of the work;
 (ii) Electrical/telecommunication contractor's license number;

(iii) Installing electrician's certificate number, except for telecommunication work;

(iv) Job site address;

(v) Contact telephone number for the job site (to be used to arrange inspection); and

(vi) Short description of the work.

(d) The label must be filled in using sunlight and weather resistant ink.

(e) The electrical/telecommunication contractor must return the contractor's portion of the label to the Department of Labor and Industries, Electrical Section, Chief Electrical Inspector, P.O. Box 44460, Olympia, WA 98504-4460 within fifteen working days after the job site portion of the Class B installation label is affixed.

(24) Class B basic installation labels will be sold in blocks. Installations where a Class B basic installation label is used will be inspected on a random basis as determined by the department.

(a) If any such random inspection fails, a subsequent label in the block must be inspected.

(b) If any such subsequent installation fails inspection, another label in the block must be inspected until a label is approved without a correction(s).

(c) A fee is required for any inspection required when a correction(s) is issued as a result of the inspection of any Class B label or if an inspection is required because of (a) or (b) of this subsection. See WAC 296-46B-905(15) for fees.

(25) Any electrical/telecommunication contractor or other entity using the Class B basic electrical inspection/random inspection process may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

(26) Class B basic electrical work means work other than Class A basic electrical work. See WAC 296-46B-900(8) for Class A definition.

(a) Class B basic electrical work includes the following:

(i) Extension of not more than one branch electrical circuit limited to one hundred twenty volts and twenty amps each where:

(A) No cover inspection is necessary. For the purposes of this section, cover inspection does not include work covered by any surface that may be removed for inspection without damaging the surface; and

(B) The extension does not supply more than two devices or outlets as defined by the NEC. A device allowed in an extended circuit includes: General use snap switches/receptacles, luminaires, thermostats, speakers, etc., but does not include wiring/cabling systems, isolating switches, magnetic contactors, motor controllers, etc.

(ii) Like-in-kind replacement of:

- (A) A single luminaire not exceeding two hundred seventy seven volts and twenty amps; or
- (B) A motor larger than ten horsepower; or
- (C) The internal wiring of a furnace, air conditioner, refrigeration unit or household appliance; or
- (D) An electric/gas/oil furnace not exceeding two hundred forty volts and one hundred amps when the furnace is connected to an existing branch circuit. For the purposes of this section, a boiler is not a furnace; or
- (E) An individually controlled electric room heater (e.g., baseboard, wall, fan forced air, etc.), air conditioning unit or refrigeration unit not exceeding two hundred forty volts, thirty minimum circuit amps when the unit is connected to an existing branch circuit; or
- (F) Circuit modification required to install not more than five residential load control devices in a residence where installed as part of an energy conservation program sponsored by an electrical utility and where the circuit does not exceed two hundred forty volts and thirty amps.

(iii) The following low voltage systems:

- (A) Repair and replacement of devices not exceeding one hundred volt amperes in Class 2, Class 3, or power limited low voltage systems in one- and two-family dwellings; or
- (B) Repair and replacement of devices not exceeding one hundred volt amperes in Class 2, Class 3, or power limited low voltage systems in other buildings, provided the equipment is not for fire alarm or nurse call systems and is not located in an area classified as hazardous by the NEC; or
- (C) The installation of Class 2 or 3 device(s) or wiring for thermostat, audio, security, burglar alarm, intercom, amplified sound, public address, or access control systems. This does not include fire alarm, nurse call, lighting control, industrial automation/control or energy management systems; or
- (D) Telecommunications cabling and equipment requiring inspection in RCW 19.28.470;

- (iv) The replacement of not more than ten standard receptacles with GFCI receptacles;
- (v) The conversion of not more than ten snap switches to dimmers for the use of controlling a luminaire(s) conversion.

(b) Class B basic electrical work does not include any work in:

- (i) Areas classified as Class (I), Class (II), Class (III), or zone locations per NEC 500; or
- (ii) Areas regulated by NEC 517 or 680; or
- (iii) Any work where electrical plan review is required; or
- (iv) Fire alarm, nurse call, lighting control, industrial automation/control or energy management systems.)

Classification or definition of occupancies.

(1) Occupancies are classified and defined as follows:

(a) Educational facility refers to a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

(b) Institutional facility refers to a building or portion of a building used primarily for detention or correctional occu-

pancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

(c) Health or personal care facility. Health or personal care facility refers to buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental, or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated.

(i) "Hospital" means any institution, place, building, or agency providing accommodations, facilities, and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis.

(ii) "Nursing home," "nursing home unit" or "long-term care unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities, require skilled nursing care and related medical services but are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.

(iii) "Boarding home" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing board and domiciliary care to seven or more aged persons not related by blood or marriage to the operator. It must not include any home, institution, or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution, or section thereof.

(iv) "Private alcoholism hospital" means an institution, facility, building, or equivalent designed, organized, maintained, or operated to provide diagnosis, treatment, and care of individuals demonstrating signs or symptoms of alcoholism, including the complications of associated substance use and other medical diseases that can be appropriately treated and cared for in the facility and providing accommodations, medical services, or other necessary services over a continuous period of twenty-four hours or more for two or more individuals unrelated to the operator, provided that this chapter will not apply to any facility, agency, or other entity which is owned and operated by a public or governmental body.

(v) "Alcoholism treatment facility" means a private place or establishment, other than a licensed hospital, operated primarily for the treatment of alcoholism.

(vi) "Private psychiatric hospital" means a privately owned and operated establishment or institution which: Provides accommodations and services over a continuous period

of twenty-four hours or more, and is expressly and exclusively for observing, diagnosing, or caring for two or more individuals with signs or symptoms of mental illness who are not related to the licensee.

(vii) "Maternity home" means any home, place, hospital, or institution in which facilities are maintained for the care of four or more women, not related by blood or marriage to the operator, during pregnancy or during or within ten days after delivery: Provided, however, that this definition will not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association, or its successor.

(viii) "Birth center" or "childbirth center" means a type of maternity home which is a house, building, or equivalent organized to provide facilities and staff to support a birth service provided that the birth service is limited to low-risk maternal clients during the intrapartum period.

(ix) "Ambulatory surgical facility" means a facility, not a part of a hospital, providing surgical treatment to patients not requiring inpatient care in a hospital. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice. (NEC: Ambulatory Health Care Center.)

(x) "Hospice care center" means any building, facility, place, or equivalent, organized, maintained, or operated specifically to provide beds, accommodations, facilities, or services over a continuous period of twenty-four hours or more for palliative care of two or more individuals, not related to the operator, who are diagnosed as being in the latter stages of an advanced disease which is expected to lead to death.

(xi) "Renal hemodialysis clinic" means a facility in a building or part of a building which is approved to furnish the full spectrum of diagnostic, therapeutic, or rehabilitative services required for the care of renal dialysis patients (including inpatient dialysis furnished directly or under arrangement). (NEC: Ambulatory Health Care Center.)

(xii) "Medical, dental, and chiropractic clinic" means any clinic or physicians' office where patients are not regularly kept as bed patients for twenty-four hours or more. Electrical plan review is not required.

(xiii) "Residential treatment facility for psychiatrically impaired children and youth" means a residence, place, or facility designed or organized to provide twenty-four-hour residential care or long-term individualized, active treatment for clients who have been diagnosed or evaluated as psychiatrically impaired.

(xiv) "Adult residential rehabilitation center" means a residence, place, or facility designed or organized primarily to provide twenty-four-hour residential care, crisis and short-term care or long-term individualized active treatment and rehabilitation for clients diagnosed or evaluated as psychiatrically impaired or chronically mentally ill as defined herein or in chapter 71.24 RCW.

(xv) "Group care facility" means a facility other than a foster-family home maintained or operated for the care of a group of children on a twenty-four-hour basis.

(d) Licensed day care centers.

(i) "Child day care center" means a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods less than twenty-four hours.

(ii) "School-age child care center" means a program operating in a facility other than a private residence accountable for school-age children when school is not in session. The facility must meet department of licensing requirements and provide adult supervised care and a variety of developmentally appropriate activities.

(iii) "Family child day care home" means the same as "family child care home" and "a child day care facility" licensed by the state, located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home. Electrical plan review is not required.

Plan review for educational, institutional or health care facilities/buildings.

(2) Plan review is a part of the electrical inspection process; its primary purpose is to determine:

- (a) That service/feeder conductors are calculated and sized according to the proper NEC or WAC article or section;
- (b) The classification of hazardous locations; and
- (c) The proper design of emergency and standby systems.

(3) Electrical plan review.

(a) Electrical plan review is not required for:

(i) Lighting specific projects that result in an electrical load reduction on each feeder involved in the project;

(ii) Low voltage systems;

(iii) Modifications to existing electrical installations where all of the following conditions are met:

- Service or distribution equipment involved is rated not more than 400 amperes and does not exceed 250 volts;
- Does not involve emergency systems other than listed unit equipment per NEC 700.12(F);
- Does not involve branch circuits or feeders of an essential electrical system as defined in NEC 517.2; and
- Service and feeder load calculations are increased by 5% or less.

(iv) Stand-alone utility fed services that do not exceed 250 volts, 400 amperes where the project's distribution system does not include:

- Emergency systems other than listed unit equipment per NEC 700.12(F);
- Critical branch circuits or feeders as defined in NEC 517.2; or

• A required fire pump system.

(b) Electrical plan review is required for all other new or altered electrical projects in educational, institutional, or health care occupancies classified or defined in this chapter.

(c) If a review is required, the electrical plan must be submitted for review and approval before the electrical work is begun.

(d) Electrical plans.

(i) The plan must be submitted for plan review prior to beginning any electrical inspection. If a plan is rejected during the plan review process, no electrical inspection(s) may

proceed until the plan is resubmitted and a conditional acceptance is granted.

(ii) The submitted plan will receive a preliminary review within seven business days after receipt by the department or city authorized to do electrical inspections.

(iii) If the submitted plan:

• Is rejected at the preliminary review, no inspection(s) will be made on the project.

• Receives conditional acceptance, the permit holder may request a preliminary inspection(s) in writing to the department or city authorized to do electrical inspections. The request must note that the preliminary inspection(s) is conditional and subject to any alterations required from the final plan review process.

(iv) Once the submitted plan has preliminary plan review approval, a copy of the submitted plan must be available on the job site for use by the electrical inspector.

(v) The final approved plan must be available on the job site, for use by the electrical inspector, after it is approved, but no later than prior to the final electrical inspection.

(vi) If the final approved plan requires changes from the conditionally accepted plan, alterations to the project may be required to make the project comply with the approved plan.

(vii) If the installer deviates from the service/feeder design shown on the final approved plan, a supplemental plan must be submitted for review before inspection can proceed. Load reductions or moving branch circuit locations within a panelboard do not require resubmission.

(e) All electrical plans for educational facilities, hospitals, and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW, and chapters 246-320, 180-29, and 388-97 WAC and stamped with the engineer's mark and signature.

(f) Refer plans for review to the Electrical Section, Department of Labor and Industries, P.O. Box 44460, Olympia, Washington 98504-4460 or the city authorized to do electrical inspections.

(g) Plans for projects within cities that perform electrical inspections must be submitted to that city for review.

(h) Plans to be reviewed must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include all switchboard and panelboard schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation, and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department or city authorized to do electrical inspections. Plan review fees are not required to be paid until the review is completed. Plans will not be returned until all fees are paid. Fees will be calculated based on the date the plans are received by the department or city authorized to do electrical inspections.

(i) The department may perform the plan review for new or altered electrical installations of other types of construction when the owner or electrical contractor makes a volun-

tary request for review. A city authorized to do electrical inspections may require a plan review of any electrical system.

(j) For existing structures where additions or alterations to feeders and services are proposed, NEC 220.87(1) may be used. If NEC 220.87(1) is used, the following is required:

(i) The date of the measurements.

(ii) A statement attesting to the validity of the demand data, signed by a professional electrical engineer or the electrical administrator of the electrical contractor performing the work.

(iii) A diagram of the electrical system identifying the point(s) of measurement.

(iv) Building demand measured continuously on the highest-loaded phase of the feeder or service over a thirty-day period, with the demand peak clearly identified. Demand peak is defined as the maximum average demand over a fifteen-minute interval.

Notes to Tables 900-1 and 900-2.

1. A city authorized to do electrical inspections may require plan review on facility types not reviewed by the department.

**Table 900-1
Health or Personal Care Facilities**

Health or Personal Care Facility Type	Plan Review Required
Hospital	Yes
Nursing home unit or long-term care unit	Yes
Boarding home	Yes
Assisted living facility	Yes
Private alcoholism hospital	Yes
Alcoholism treatment facility	Yes
Private psychiatric hospital	Yes
Maternity home	Yes
Ambulatory surgery facility	Yes
Renal hemodialysis clinic	Yes
Residential treatment facility for psychiatrically impaired children and youth	Yes
Adult residential rehabilitation center	Yes

**Table 900-2
Educational and Institutional Facilities, Places of Assembly, or Other Facilities**

Educational, Institutional, or Other Facility Types	Plan Review Required
Educational	Yes
Institutional	Yes

PART C - PERMITS AND FEES

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-901 General ((inspections, inspectors, city inspection, variance))—Electrical work permits and fees. ((1) Electrical inspectors will give information as to the interpretation or application of the standards in this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

(2) The department may enforce city electrical ordinances where those governmental agencies do not make electrical inspections under an established program.

(3) A variance from the electrical installation requirements of chapter 19.28 RCW or this chapter may be granted by the department when it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

(a) Any electrical permit holder may request a variance.

(b) The permit holder must make the request in writing, using a form provided by the department, to the chief electrical inspector. The request must include:

(i) A description of the installation as installed or proposed;

(ii) A detailed list of the applicable code violations;

(iii) A detailed list of safety violations;

(iv) A description of the proposal for meeting equivalent objectives for code and/or safety violations; and

(v) Appropriate variance application fee as listed in WAC 296-46B-905.

Inspection.

(4) Electrical wiring or equipment subject to this chapter must be sufficiently accessible, at the time of inspection, to allow the inspector to visually inspect the installation to verify conformance with the NEC and any other electrical requirements of this chapter.

(5) Cables or raceways, fished according to the NEC, do not require visual inspection.

(6) All required equipment grounding conductors installed in concealed cable or flexible conduit systems must be completely installed and made up at the time of the rough-in cover inspection.

(7) The installation of all structural elements and mechanical systems (e.g., framing, plumbing, ducting, etc.) must be complete in the area(s) where electrical inspection is requested. Prior to completion of an exterior wall cover inspection, either:

(a) The exterior shear panel/sheathing nail inspection must be completed by the building code inspector; or

(b) All wiring and device boxes must be a minimum of 63 mm (2 1/2") from the exterior surface of the framing member; or

(c) All wiring and device boxes must be protected by a steel plate a minimum of 1.6 mm (1/16") thick and of appropriate width and height installed to cover the area of the wiring or box.

(8) In order to meet the minimum electrical safety standards for installations, all materials, devices, appliances, and equipment, not exempted in chapter 19.28 RCW, must con-

form to applicable standards recognized by the department, be listed, or field evaluated. Other than as allowed in subsection (20) of this section, equipment must not be energized until such standards are met unless specific permission has been granted by the chief electrical inspector.

(9) The department will recognize the state department of transportation as the inspection authority for telecommunications systems installation within the rights of way of state highways provided the department of transportation maintains and enforces an equal, higher or better standard of construction and of materials, devices, appliances and equipment than is required for telecommunications systems installations by chapter 19.28 RCW and this chapter.

Inspection move on buildings and structures.

(10) All buildings or structures relocated into or within the state:

(a) Other than residential, wired inside the United States (U.S.) must be inspected to ensure compliance with current requirements of chapter 19.28 RCW and the rules developed by the department.

(b) Wired outside the U.S. or Canada must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department.

(11) Residential buildings or structures wired in the U.S., to NEC requirements, and moved into or within a county, city, or town must be inspected to ensure compliance with the NEC requirements in effect at the time and place the original wiring was made. The building or structure must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department if:

(a) The original occupancy classification of the building or structure is changed as a result of the move; or

(b) The building or structure has been substantially remodeled or rehabilitated as a result of the move.

(12) Residential buildings or structures wired in Canada to Canadian Electrical Code (CEC) standards and moved into or within a county, city, or town, must be inspected to ensure compliance with the following minimum safety requirements:

(a) Service, service grounding, and service bonding must comply with the current chapter 19.28 RCW and rules adopted by the department.

(b) Canadian Standards Association (CSA) listed Type NMD cable is allowed with the following qualifications:

(i) CSA listed Type NMD cable, American Wire Gauge #10 and smaller installed after 1964 utilizing an equipment grounding conductor smaller than the phase conductors, must be:

(A) Replaced with a cable utilizing a full-size equipment grounding conductor; or

(B) Protected by a ground fault circuit interrupter protection device.

(ii) CSA listed Type NMD cable, #8 AWG and larger, must:

(A) Utilize an equipment grounding conductor sized according to the requirements of the NEC in effect at the time of the installation;

(B) Be protected by a ground fault circuit interrupter protection device; or

(C) Be replaced.

(e) Other types of wiring and cable must be:

(i) Replaced with wiring listed or field evaluated in accordance with U.S. standards by a laboratory approved by the department; or

(ii) Protected by a ground fault circuit interrupter protection device and are fault circuit protection device.

(d) Equipment, other than wiring or panelboards, manufactured and installed prior to 1997, must be listed and identified by laboratory labels approved by the department or CSA labels.

(e) All panelboards must be listed and identified by testing laboratory labels approved by the department with the following qualifications:

(i) CSA listed panelboards labeled "Suitable for Use as Service Equipment" will be considered to be approved as "Suitable for Use only as Service Equipment."

(ii) CSA listed panelboards must be limited to a maximum of 42 circuits.

(iii) CSA listed panelboards used as lighting and appliance panelboards as described in the NEC, must meet all current requirements of the NEC and this chapter.

(f) Any wiring or panelboards replaced or changed as a result of the move must meet current requirements of chapter 19.28 RCW and this chapter.

(g) The location, type, and ground fault circuit interrupter protection of receptacles and equipment in a bathroom, kitchen, basement, garage, or outdoor area must meet the Washington requirements in effect at the time the wiring was installed.

(h) 4, 15 ampere, kitchen small appliance circuits will be accepted in lieu of 2, 20 ampere, kitchen small appliance circuits. Receptacles will not be required to be added on kitchen peninsular or island counters.

(i) Spacing requirements for all other receptacles must meet the Washington requirements in effect at the time the wiring was installed.

(j) Receptacles installed above baseboard or fixed wall space heaters must be removed and the outlet box covered with a blank cover. The receptacle is required to be relocated as closely as possible to the existing location.

(k) Lighting outlet and switch locations must meet the Washington requirements in effect at the time the wiring was installed.

(l) Dedicated 20 ampere small appliance circuits are not required in dining rooms.

(m) Electric water heater branch circuits must be adequate for the load.

(n) The location, type, and circuit protection of feeders must meet the Washington requirements in effect at the time the wiring was installed.

Classification or definition of occupancies.

(13) Occupancies are classified and defined as follows:

(a) Educational facility refers to a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

(b) Institutional facility refers to a building or portion of a building used primarily for detention and correctional occu-

pancies where some degree of restraint or security is required for a time period of twenty four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential restrained care.

(c) Health or personal care facility. Health or personal care facility refers to buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated.

(i) "Hospital" means any institution, place, building, or agency providing accommodations, facilities and services over a continuous period of twenty four hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis.

(ii) "Nursing home," "nursing home unit" or "long term care unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities, require skilled nursing care and related medical services but are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.

(iii) "Boarding home" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing board and domiciliary care to seven or more aged persons not related by blood or marriage to the operator. It must not include any home, institution, or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution, or section thereof.

(iv) "Private alcoholism hospital" means an institution, facility, building, or equivalent designed, organized, maintained, and operated to provide diagnosis, treatment, and care of individuals demonstrating signs or symptoms of alcoholism, including the complications of associated substance use and other medical diseases that can be appropriately treated and cared for in the facility and providing accommodations, medical services, and other necessary services over a continuous period of twenty four hours or more for two or more individuals unrelated to the operator, provided that this chapter will not apply to any facility, agency, or other entity which is owned and operated by a public or governmental body.

(v) "Alcoholism treatment facility" means a private place or establishment, other than a licensed hospital, operated primarily for the treatment of alcoholism.

(vi) "Private psychiatric hospital" means a privately owned and operated establishment or institution which: Provides accommodations and services over a continuous period

~~of twenty-four hours or more, and is expressly and exclusively for observing, diagnosing, or caring for two or more individuals with signs or symptoms of mental illness, who are not related to the licensee.~~

(vii) "Maternity home" means any home, place, hospital, or institution in which facilities are maintained for the care of four or more women, not related by blood or marriage to the operator, during pregnancy or during or within ten days after delivery. Provided, however, that this definition will not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association or its successor.

(viii) "Birth center" or "childbirth center" means a type of maternity home which is a house, building, or equivalent organized to provide facilities and staff to support a birth service, provided that the birth service is limited to low-risk maternal clients during the intrapartum period.

(ix) "Ambulatory surgical facility" means a facility, not a part of a hospital, providing surgical treatment to patients not requiring inpatient care in a hospital. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice. (NEC; Ambulatory Health Care Center.)

(x) "Hospice care center" means any building, facility, place, or equivalent, organized, maintained, and operated specifically to provide beds, accommodations, facilities, and services over a continuous period of twenty-four hours or more for palliative care of two or more individuals, not related to the operator, who are diagnosed as being in the latter stages of an advanced disease which is expected to lead to death.

(xi) "Renal hemodialysis clinic" means a facility in a building or part of a building which is approved to furnish the full spectrum of diagnostic, therapeutic, and rehabilitative services required for the care of renal dialysis patients (including inpatient dialysis furnished directly or under arrangement). (NEC; Ambulatory Health Care Center.)

(xii) "Medical, dental, and chiropractic clinic" means any clinic or physicians' office where patients are not regularly kept as bed patients for twenty-four hours or more. Electrical plan review not required.

(xiii) "Residential treatment facility for psychiatrically impaired children and youth" means a residence, place, or facility designed and organized to provide twenty-four-hour residential care and long-term individualized, active treatment for clients who have been diagnosed or evaluated as psychiatrically impaired.

(xiv) "Adult residential rehabilitation center" means a residence, place, or facility designed and organized primarily to provide twenty-four-hour residential care, crisis and short-term care and/or long-term individualized active treatment and rehabilitation for clients diagnosed or evaluated as psychiatrically impaired or chronically mentally ill as defined herein or in chapter 71.24 RCW.

(xv) "Group care facility" means a facility other than a foster family home maintained and operated for the care of a group of children on a twenty-four-hour basis.

(d) Licensed day care centers.

(i) "Child day care center" means a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods less than twenty-four hours; except, a program meeting the definition of a family child care home will not be licensed as a day care center without meeting the requirements of WAC 388-150-020(5).

(ii) "School-age child care center" means a program operating in a facility other than a private residence accountable for school-age children when school is not in session. The facility must meet department of licensing requirements and provide adult supervised care and a variety of developmentally appropriate activities.

(iii) "Family child day care home" means the same as "family child care home" and "a child day care facility" licensed by the state, located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home. Electrical plan review not required.

~~Plan review for educational, institutional or health care facilities and other buildings.~~

(14) Plan review is a part of the electrical inspection process; its primary purpose is to determine:

- (a) That service/feeder conductors are calculated and sized according to the proper NEC or WAC article or section;
- (b) The classification of hazardous locations; and
- (c) The proper design of emergency and standby systems.

~~(15) Electrical plan review.~~

~~(a) Electrical plan review is not required for:~~

~~(i) Lighting specific projects that result in an electrical load reduction on each feeder involved in the project;~~

~~(ii) Low voltage systems;~~

~~(iii) Modifications to existing electrical installations where all of the following conditions are met:~~

- ~~• Service or distribution equipment involved is rated not more than 400 amperes and does not exceed 250 volts;~~
- ~~• Does not involve emergency systems other than listed unit equipment per NEC 700.12(F);~~
- ~~• Does not involve branch circuits or feeders of an essential electrical system as defined in NEC 517.2; and~~
- ~~• Service and feeder load calculations are increased by 5% or less.~~

~~(iv) Stand alone utility fed services that do not exceed 250 volts, 400 amperes where the project's distribution system does not include:~~

- ~~• Emergency systems other than listed unit equipment per NEC 700.12(F);~~
- ~~• Critical branch circuits or feeders as defined in NEC 517.2; or~~
- ~~• A required fire pump system.~~

~~(b) Electrical plan review is required for all other new or altered electrical projects in educational, institutional, or health care occupancies classified or defined in this chapter.~~

~~(c) If a review is required, the electrical plan must be submitted for review and approval before the electrical work is begun.~~

~~(d) Electrical plans.~~

(i) The plan must be submitted for plan review prior to beginning any electrical inspection. If a plan is rejected during the plan review process, no electrical inspection(s) may proceed until the plan is resubmitted and a conditional acceptance is granted.

(ii) The submitted plan will receive a preliminary review within seven business days after receipt by the department.

(iii) If the submitted plan:

- Is rejected at the preliminary review, no inspection(s) will be made on the project.

- Receives conditional acceptance, the permit holder may request a preliminary inspection(s) in writing to the department. The request must note that the preliminary inspection(s) is conditional and subject to any alterations required from the final plan review process.

(iv) Once the submitted plan has plan review approval, the approved plan must be available on the job site for use by the electrical inspector.

(v) The approved plan must be available on the job site, for use by the electrical inspector, prior to the final electrical inspection.

(vi) If the approved plan requires changes from the conditionally accepted plan, alterations to the project may be required to make the project comply with the approved plan.

(e) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW, and chapters 246-320, 180-29, and 388-97 WAC and stamped with the engineer's mark and signature.

(f) Refer plans for department review to the Electrical Section, Department of Labor and Industries, P.O. Box 44460, Olympia, Washington 98504-4460.

(g) Plans for projects within cities that perform electrical inspections within their jurisdiction, and provide an electrical plan review program that equals or exceeds the department's program in plans examiner minimum qualifications per chapter 19.28 RCW, must be submitted to that city for review, unless the agency regulating the installation specifically requires review by the department.

(h) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department. Plan review fees are not required to be paid until the review is completed. Plans will not be returned until all fees are paid. Fees will be calculated based on the date the plans are received by the department.

(i) The department may perform the plan review for new or altered electrical installations of other types of construction when the owner or electrical contractor makes a voluntary request for review.

(j) For existing structures where additions or alterations to feeders and services are proposed, Article 220.87(1) NEC may be used. If Article 220.87(1) NEC is used, the following is required:

(i) The date of the measurements.

(ii) A statement attesting to the validity of the demand data, signed by a professional electrical engineer or the electrical administrator of the electrical contractor performing the work.

(iii) A diagram of the electrical system identifying the point(s) of measurement.

(iv) Building demand measured continuously on the highest loaded phase of the feeder or service over a thirty day period, with demand peak clearly identified. (Demand peak is defined as the maximum average demand over a fifteen-minute interval.)

Wiring methods for designated building occupancies.

(16) Wiring methods, equipment and devices for health or personal care, educational and institutional facilities as defined or classified in this chapter and for places of assembly for one hundred or more persons must comply with Tables 901-1 and 901-2 of this chapter and the notes thereto. The local building authority will determine the occupant load of places of assembly.

(17) Listed tamper-resistant receptacles or listed tamper-resistant receptacle cover plates are required in all licensed day care centers, all licensed children group care facilities and psychiatric patient care facilities where accessible to children five years of age and under. Listed tamper-resistant receptacles are required in psychiatric patient care facilities where accessible to psychiatric patients over five years of age.

Notes to Tables 901-1 and 901-2.

1. Wiring methods in accordance with the NEC unless otherwise noted.
2. Metallic or nonmetallic raceways, MI, MC, or AC cable, except that in places of assembly located within educational or institutional facilities, wiring methods must conform to NEC 518.4(A). Places of assembly located within educational or institutional facilities may not be wired according to NEC 518.4 (B) or (C).
3. Limited energy system may use wiring methods in accordance with the NEC.

Table 901-1 Health or Personal Care Facilities

Health or Personal Care Facility Type^(*)	Plan Review Required
Hospital	Yes
Nursing home unit or long term care unit	Yes
Boarding home or assisted living facility	Yes
Private alcoholism hospital	Yes
Alcoholism treatment facility	Yes
Private psychiatric hospital	Yes

Table 901-1 Health or Personal Care Facilities

Health or Personal Care Facility Type^(a)	Plan Review Required
Maternity home	Yes
Birth center or childbirth center	No
Ambulatory surgery facility	Yes
Hospice care center	No
Renal hemodialysis clinic	Yes
Medical, dental, and chiropractic clinic	No
Residential treatment facility for psychiatrically impaired children and youth	Yes
Adult residential rehabilitation center	Yes
Group care facility	No

Table 901-2 Educational and Institutional Facilities, Places of Assembly or Other Facilities

Educational, Institutional or Other Facility Types	Plan Review Required
Educational ^{(a)(b)}	Yes
Institutional ^{(a)(b)}	Yes
Places of Assembly for 100 or more persons ^(a)	No
Child day care center ^(a)	No
School-age child care center ^(a)	No
Family child day care home, family child care home, or child day care facility ^(a)	No

Industrial control panel and industrial utilization equipment inspection:

(18) Specific definitions for this section:

(a) "Department evaluation" means a review in accordance with subsection (19)(e) of this section.

(b) "Engineering evaluation" means a review in accordance with subsection (19)(d) of this section.

(c) "Food processing plants" include buildings or facilities used in a manufacturing process, but do not include:

- (i) Municipal or other government facilities;
- (ii) Educational facilities or portions thereof;
- (iii) Institutional facilities or portions thereof;
- (iv) Restaurants;
- (v) Farming, ranching, or dairy farming operations;
- (vi) Residential uses; or
- (vii) Other installations not used for direct manufacturing purposes.

(d) In RCW 19.28.901, "industrial control panel" means a factory or user wired assembly of industrial control equipment such as motor controllers, switches, relays, power supplies, computers, cathode ray tubes, transducers, and auxiliary devices used in the manufacturing process to control industrial utilization equipment. The panel may include disconnecting means and motor branch circuit protective devices. Industrial control panels include only those used in a

manufacturing process in a food processing or industrial plant.

(e) "Industrial plants" include buildings or facilities used in a manufacturing process or a manufacturing training facility (e.g., educational shop area in an educational or institutional facility), but do not include:

- (i) Municipal or other government facilities;
- (ii) Other educational facilities or portions thereof;
- (iii) Other institutional facilities or portions thereof;
- (iv) Restaurants;
- (v) Farming, ranching, or dairy farming operations;
- (vi) Residential uses; or
- (vii) Other installations not used for direct manufacturing purposes.

(f) "Industrial utilization equipment" means equipment directly used in a manufacturing process in a food processing or industrial plant, in particular the processing, treatment, moving, or packaging of a material. Industrial utilization equipment does not include: Cold storage, warehousing, or similar storage equipment.

(g) "Manufacturing process" means to make or process a raw material or part into a finished product for sale using industrial utilization equipment. A manufacturing process does not include the storage of a product for future distribution (e.g., cold storage, warehousing, and similar storage activity).

(h) "Normal department inspection" is a part of the department electrical inspection process included with the general wiring inspection of a building structure, or other electrical installation. Normal department inspection will only be made for equipment solely using listed or field evaluated components and wired to the requirements of the NEC. Fees for the normal department inspections required under this chapter are included in the electrical work permit fee calculated for the installation and are not a separate inspection fee. However, inspection time associated with such equipment is subject to the progress inspection rates in WAC 296-46B-905.

(i) For the purposes of this section, "panel" means a single box or enclosure containing the components comprising an industrial control panel. A panel does not include any wiring methods connecting multiple panels or connecting a panel(s) and other electrical equipment.

(19) Industrial control panels and industrial utilization equipment will be determined to meet the minimum electrical safety standards for installations by:

(a) Listing or field evaluation of the entire panel or equipment;

(b) Normal department inspection for compliance with codes and rules adopted under this chapter; or

(c) By engineer review (see (d) of this subsection) or through June 30, 2007, by department evaluation showing compliance with appropriate standards. Appropriate standards are NEMA, ANSI, NFPA 79, UL 508A, International Electrotechnical Commission 60204, or their equivalent. Industrial utilization equipment is required to conform to a nationally or internationally recognized standard applicable for the particular industrial utilization equipment. Compliance must be shown as follows:

(i) The equipment's manufacturer must document, by letter to the equipment owner, the equipment's conformity to an appropriate standard(s). The letter must state:

- (A) The equipment manufacturer's name;
- (B) The type of equipment;
- (C) The equipment model number;
- (D) The equipment serial number;
- (E) The equipment supply voltage, amperes, phasing;
- (F) The standard(s) used to manufacture the equipment.

Except for the reference of construction requirements to ensure the product can be installed in accordance with the National Electrical Code, the National Electrical Code is not considered a standard for the purposes of this section;

(G) Fault current interrupting rating of the equipment or the owner may provide documentation showing that the fault current available at the point where the building wiring connects to the equipment is less than 5,000 AIC; and

(H) The date the equipment was manufactured. Equipment that was manufactured prior to January 1, 1985, is not required to meet (e)(i)(F) of this subsection.

(ii) The equipment owner must document, by letter to the chief electrical inspector, the equipment's usage as industrial utilization equipment as described in this section and provide a copy of the equipment manufacturer's letter described in (e)(i) of this subsection. The owner's letter must be accompanied by the fee required in WAC 296-46B-905(14).

For the purposes of this section, the owner must be a food processing or industrial plant as described in this section.

(iii) The chief electrical inspector will evaluate the equipment manufacturer's letter, equipment owner's letter, and the individual equipment.

If the equipment is determined to have had electrical modifications since the date of manufacture, the chief electrical inspector will not approve equipment using this method.

(iv) If required by the chief electrical inspector, the owner must provide the department with a copy, in English, of the standard(s) used and any documentation required by the chief electrical inspector to support the claims made in the equipment manufacturer's or owner's letter. At the request of the owner, the department will obtain a copy of any necessary standard to complete the review. If, per the owner's request, the department obtains the copy of the standard, the owner will be billed for all costs associated with obtaining the standard.

If the industrial utilization equipment has been determined to be manufactured to a standard(s) appropriate for industrial utilization equipment as determined by the chief electrical inspector per RCW 19.28.901(1), the equipment will be marked with a department label.

The department will charge a marking fee as required in WAC 296-46B-905(14). Once marked by the department, the equipment is suitable for installation anywhere within the state without modification so long as the equipment is being used as industrial utilization equipment. If payment for marking is not received by the department within thirty days of marking the equipment, the department's mark(s) will be removed and the equipment ordered removed from service.

(v) If the equipment usage is changed to other than industrial utilization equipment or electrical modifications

are made to the equipment, the equipment must be successfully listed or field evaluated by a laboratory approved by the department.

(vi) The equipment must be permanently installed at the owner's facility and inspected per the requirements of RCW 19.28.101.

(d) An engineering review where an engineer, accredited by the department, shows the equipment to be in compliance with appropriate standards in (e) of this subsection. See WAC 296-46B-997 for the requirements to become an accredited engineer. Appropriate standards are NEMA, ANSI, NFPA 79, UL 508A, International Electrotechnical Commission 60204, or their equivalent. Industrial utilization equipment is required to conform to a nationally or internationally recognized standard applicable for the particular industrial utilization equipment. The engineer must:

(i) Document, by letter to the chief electrical inspector, the equipment's conformity to an appropriate standard(s) and the fault current interrupting rating of the equipment.

(ii) Affix a permanent label to the equipment showing:

- (A) Engineer's name;
- (B) Date of approval;
- (C) Equipment serial number; and
- (D) The following statement: "This equipment meets appropriate standards for industrial utilization equipment."

(20) The department may authorize, on a case-by-case basis, use of the industrial control panel or equipment, for a period not to exceed six months or as approved by the chief electrical inspector after use is begun, before its final inspection, listing, or evaluation.

Traffic management systems:

(21) The department will perform the electrical inspection and acceptance of traffic management systems within its jurisdiction. A traffic management system includes:

- (a) Traffic illumination systems;
- (b) Traffic signal systems;
- (c) Traffic monitoring systems;
- (d) The electrical service cabinet and all related components and equipment installed on the load side of the service cabinet supplying electrical power to the traffic management system; and
- (e) Signalization system(s) necessary for the operation of a light rail system.

A traffic management system can provide signalization for controlling vehicular traffic, pedestrian traffic, or rolling stock.

(22) The department recognizes that traffic signal conductors, pole and bracket cables, signal displays, and traffic signal controllers/cabinets and associated components used in traffic management systems are acceptable for the purpose of meeting the requirements of chapter 19.28 RCW provided they conform with the following standards or are listed on the Washington state department of transportation (WSDOT) qualified products list.

- (a) WSDOT/APWA Standard Specifications and Plans;
- (b) WSDOT Design Manual;
- (c) International Municipal Signal Association (IMSA);
- (d) National Electrical Manufacturer's Association (NEMA);
- (e) Federal Standards 170/Controller Cabinets;

- (f) Manual for Uniform Road, Bridge, and Municipal Construction;
- (g) Institute of Transportation Engineers (ITE); or
- (h) Manual of Uniform Traffic Control Devices (MUTCD).

~~(23) Associated induction detection loop or similar circuits will be accepted by the department without inspection.~~

~~(24) For the licensing requirements of chapter 19.28 RCW, jurisdictions will be considered owners of traffic management systems when doing electrical work for other jurisdiction(s) under a valid interlocal agreement, as permitted by chapter 39.34 RCW. Interlocal agreements for traffic management systems must be filed with the department prior to work being performed for this provision to apply.~~

~~(25) Jurisdictions, with an established electrical inspection authority, and WSDOT may perform electrical inspection on their rights of way for each other by interlocal agreement. They may not perform electrical inspection on other rights of way except as allowed in chapter 19.28 or 39.34 RCW.~~

~~(26) Underground installations:~~

~~(a) In other than open trenching, raceways will be considered "fished" according to the NEC and do not require visual inspection.~~

~~(b) The department will conduct inspections in open trenching within its jurisdiction. The electrical work permit purchaser must coordinate the electrical inspection. A written request (e.g., letter, e mail, fax, etc.) for inspection, made to the department office having the responsibility to perform the inspection, must be made a minimum of two working days prior to the day inspection is needed (e.g., two working days—10:00 a.m. Tuesday request for a 10:00 a.m. Thursday inspection, excluding holidays and weekends).~~

~~If, after proper written request, the department fails to make an electrical inspection at the time requested, underground conduit may be covered after inspection by the local government jurisdiction's project inspector/designee. Written documentation of a local government jurisdiction inspection must be provided to the department when requested. Written documentation will include:~~

- (i) Date and time of inspection;
- (ii) Location;
- (iii) Installing firm;
- (iv) Owner;
- (v) Type of conduit;
- (vi) Size of conduit;
- (vii) Depth of conduit; and
- (viii) Project inspector/designee name and contact information.

~~(27) Identification of traffic management system components. Local government jurisdictions or WSDOT may act as the certifying authority for the safety evaluation of all components:~~

~~(a) An electrical service cabinet must contain only listed components. The electrical service cabinet enclosure is not required to be listed but will conform to the standards in subsection (2) of this section.~~

~~(b) The local government jurisdiction must identify, as acceptable, the controller cabinet or system component(s)~~

~~with an identification plate. The identification plate must be located inside the cabinet and may be attached with adhesive.~~

~~(28) Conductors of different circuits in same cable, enclosure, or raceway. All traffic management system circuits will be permitted to occupy the same cable, enclosure, or raceway without regard to voltage characteristics, provided all conductors are insulated for the maximum voltage of any conductor in the cable, enclosure, or raceway.) (1) When an electrical work permit is required by chapter 19.28 RCW or this chapter, inspections may not be made, equipment must not be energized, or services connected unless:~~

~~(a) A valid electrical work permit is completely and legibly filled out and readily available;~~

~~(b) The classification or type of facility to be inspected and the exact scope and location of the electrical work to be performed are clearly shown on the electrical work permit;~~

~~(c) The address where the inspection is to be made is clearly identifiable from the street, road or highway that serves the premises; and~~

~~(d) Driving directions are provided for the inspectors' use.~~

~~(2) An electrical work permit is valid for only one specific site address.~~

~~(3) Except as provided in subsection (8) of this section, a valid electrical work permit must be posted on the job site at a readily accessible and conspicuous location prior to beginning electrical work and at all times until the electrical inspection process is completed.~~

Permit - responsibility for.

~~(4) Each person, firm, partnership, corporation, or other entity must furnish a valid electrical work permit for the installation, alteration, or other electrical work performed or to be performed solely by that entity. When the permitted work is performed solely or in part by another entity, the electrical work permit purchaser must request approval from the chief electrical inspector or the city that is authorized to do electrical inspections to take responsibility for the work of the original installing entity. Each electrical work permit application must be signed by the electrical contractor's administrator (or designee) or the person, or authorized representative of the firm, partnership, corporation, or other entity that is performing the electrical installation or alteration. Permits purchased electronically do not require a handwritten signature. An entity designated to sign electrical permits must provide written authorization of the purchaser's designation when requested by the department or city that is authorized to do electrical inspections.~~

~~(5) Permits to be obtained by customers. Whenever a serving electrical utility performs work for a customer under one of the exemptions in WAC 296-46B-925 and the work is subject to inspection, the customer is responsible for obtaining all required permits.~~

~~(6) Posting of permits: Where an electrical work permit is required, the work permit must be obtained and posted at the job site prior to beginning any electrical work. Exceptions:~~

~~(a) For an owner, an electrical work permit for emergency repairs to an existing electrical system(s) must be obtained and posted at the job site no later than the next business day after the work is begun.~~

(b) For an electrical contractor, in a city's jurisdiction where the city is authorized to do electrical inspections and does not have a provisional and a Class B permit system, an electrical work permit for emergency repairs to an existing electrical system(s) must be obtained and posted at the job site no later than the next business day after the work is begun.

(7) Fees must be paid in accordance with the inspection fee schedule in Part C of this chapter. The amount of the fee due is calculated based on the fee effective at the date payment is made. If the project is required to have an electrical plan review, the plan review fees will be based on the fees effective at the date the plans are received by the department for review. In a city where the department is doing inspections as the city's contractor, a supplemental fee may apply.

Permit - requirements for.

(8) As required by chapter 19.28 RCW or this chapter, an electrical work permit is required for the installation, alteration, or maintenance of all electrical systems or equipment except for:

(a) Travel trailers;

(b) Class A basic electrical work which includes:

(i) The like-in-kind replacement of a: Contactor, relay, timer, starter, circuit board, or similar control component; household appliance; circuit breaker; fuse; residential luminaire; lamp; snap switch; dimmer; receptacle outlet; thermostat; heating element; luminaire ballast with an exact same ballast; component(s) of electric signs, outline lighting, skeleton neon tubing when replaced on-site by an appropriate electrical contractor and when the sign, outline lighting or skeleton neon tubing electrical system is not modified; ten horsepower or smaller motor;

(ii) Induction detection loops described in WAC 296-46B-300(2) and used to control gate access devices;

(iii) Heat cable repair; and

(iv) Embedding premanufactured heat mats in tile grout where the mat is listed by an approved testing laboratory and comes from the manufacturer with preconnected lead-in conductors. All listing marks and lead-in conductor labels must be left intact and visible for evaluation and inspection by the installing electrician and the electrical inspector.

Unless specifically noted, the exemptions listed do not include: The replacement of an equipment unit, assembly, or enclosure that contains an exempted component or combination of components (e.g., an electrical furnace/heat pump, industrial milling machine, etc.) or any appliance/equipment described in this section for Class B permits.

In the department's jurisdiction, a provisional electrical work permit label may be posted in lieu of an electrical work permit. If a provisional electrical work permit label is used, an electrical work permit must be obtained within two working days after posting the provisional electrical work permit label.

(9) An electrical work permit is required for all installations of telecommunications systems on the customer side of the network demarcation point for projects greater than ten telecommunications outlets. All backbone installations regardless of size and all telecommunications cable or equipment installations involving penetrations of fire barriers or passing through hazardous locations require permits and

inspections. For the purposes of determining the inspection threshold for telecommunications projects greater than ten outlets, the following will apply:

(a) An outlet is the combination of jacks and mounting hardware for those jacks, along with the associated cable and telecommunications closet terminations, that serve one workstation. In counting outlets to determine the inspection threshold, one outlet must not be associated with more than six standard four-pair cables or more than one twenty-five-pair cable. Therefore, installations of greater than sixty standard four-pair cables or ten standard twenty-five-pair cables require permits and inspections. (It is not the intent of the statute to allow large masses of cables to be run to workstations or spaces serving telecommunications equipment without inspection. Proper cable support and proper loading of building structural elements are safety concerns. When considering total associated cables, the telecommunications availability at one workstation may count as more than one outlet.)

(b) The installation of greater than ten outlets and the associated cables along any horizontal pathway from a telecommunications closet to work areas during any continuous ninety-day period requires a permit and inspection.

(c) All telecommunications installations within the residential dwelling units of single-family, duplex, and multi-family dwellings do not require permits or inspections. In residential multifamily dwellings, permits and inspections are required for all backbone installations, all fire barrier penetrations, and installations of greater than ten outlets in common areas.

(d) No permits or inspections are required for installation or replacement of cord and plug connected telecommunications equipment or for patch cord and jumper cross-connected equipment.

(e) Definitions of telecommunications technical terms will come from chapter 19.28 RCW, this chapter, TIA/EIA standards, and NEC.

Permit - inspection and approval.

(10) Requests for inspections.

(a) Requests for inspections must be made no later than three business days after completion of the electrical/telecommunications installation or one business day after any part of the installation has been energized, whichever occurs first.

(b) Requests for after hours or weekend inspections must be made by contacting the local electrical inspection supervisor at least three working days prior to the requested date of inspection. The portal-to-portal inspection fees required for after hours or weekend inspections are in addition to the cost of the original electrical work permit.

(c) Emergency requests to inspect repairs necessary to preserve life and equipment safety may be requested at any time.

(d) Inspections for annual electrical maintenance permits and annual telecommunications permits may be done on a regular schedule arranged by the permit holder with the department.

(11) Final inspection approval will not be made until all inspection fees are paid in full.

Permit - duration/refunds.

(12) Electrical work permits will expire one year after the date of purchase unless electrical work is actively and consistently in progress and inspections requested. Refunds are not available for:

(a) Expired electrical work permits;

(b) Electrical work permits where the electrical installation has begun; or

(c) Any electrical work permit where an electrical inspection or electrical inspection request has been made.

Permit - annual telecommunications.

(13) The chief electrical inspector or city that is authorized to do electrical inspections can allow annual permits for the inspection of telecommunications installations to be purchased by a building owner or licensed electrical/telecommunications contractor. The owner's full-time telecommunications maintenance staff, or a licensed electrical/telecommunications contractor(s) can perform the work done under this annual permit. The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all the telecommunications work performed and the valid electrical or telecommunications contractor's license numbers for all contractors working under the permit.

Permit - annual electrical.

(14) The chief electrical inspector or city that is authorized to do electrical inspections can allow annual permits for the inspection of electrical installations to be purchased by a building owner or licensed electrical contractor. This type of permit is available for commercial/industrial locations employing a full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor.

The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all electrical work performed.

This type of electrical permit may be used for retrofit, replacement, maintenance, repair, upgrade, and alterations to electrical systems at a single plant or building location. This type of permit does not include new or increased service or new square footage.

Permit - temporary installations.

(15) For temporary electrical installations, the department will consider a permit applicant to be the owner per RCW 19.28.261 under the conditions below:

Any person, firm, partnership, corporation, or other entity registered as a general contractor under chapter 18.27 RCW will be permitted to install a single electrical service per address for the purposes of temporary power during the construction phase of a project, when all of the following conditions are met:

(a) The installation is limited to the mounting and bracing of a preassembled pole or pedestal mounted service, the installation of a ground rod or ground plate, and the connection of the grounding electrode conductor to the ground rod or plate;

(b) The total service size does not exceed 200 amperes, 250 volts nominal;

(c) The service supplies no feeders;

(d) Branch circuits not exceeding 50 amperes each are permitted, provided such branch circuits supply only receptacles that are either part of the service equipment or are mounted on the same pole;

(e) The general contractor owns the electrical equipment;

(f) The general contractor has been hired by the property owner as the general contractor for the project;

(g) The general contractor must purchase an electrical work permit for the temporary service, request inspection, and obtain approval prior to energizing the service.

NEW SECTION

WAC 296-46B-902 Equipment standards approval, city ordinances. (1) Any city that does electrical or telecommunications inspections must declare their intent to do inspections by ordinance. See RCW 19.28.010(3) for city inspection and inspector requirements. The department may enforce city electrical or telecommunications ordinances where those governmental agencies do not make inspections under an established program.

Evaluation engineers, testing laboratories, and equipment standards.

(2) As authorized in RCW 19.28.010(1), the department is the sole authority for determining testing laboratory accreditation. See WAC 296-46B-997 and 296-46B-999 for information regarding evaluation engineers, testing laboratories, and equipment standards.

NEW SECTION

WAC 296-46B-903 Equipment standards.

General.

(1) The standard(s) used, as the basis of electrical product certification, field evaluation, or department approval must be determined by the department to provide an adequate level of safety or define an adequate level of safety performance. Except for the reference of construction requirements to ensure the product can be installed in accordance with the National Electrical Code, field evaluations, by an approved laboratory, shall not use the National Electrical Code as standard for product evaluation.

(2) Generally, standards will be:

(a) Developed by a standards developing organization under a method providing for input and consideration of views of industry groups, experts, users, consumers, governmental authorities, and others having broad experience in the electrical products safety field. A standard is used to control the quality and safety of a product;

(b) Compatible with and be maintained current with periodic revisions of applicable national codes and installation standards; and

(c) Approved by the department. The department will evaluate the proposed standard to determine that it provides an adequate level of safety.

(3) All ANSI safety designated electrical product standards may be deemed acceptable for their intended use without further qualification.

(4) If the product safety standard is not ANSI, the standard must be reviewed and approved by the department as an

appropriate electrical product safety standard as a part of the field evaluation or department inspection process.

Industrial control panel and industrial utilization equipment inspection.

(5) Specific definitions for this section:

(a) "Department evaluation" means a review in accordance with subsection (6)(b) of this section.

(b) "Engineering evaluation" means a review in accordance with subsection (6)(c) of this section.

(c) "Food processing plants" include buildings or facilities used in a manufacturing process, but do not include:

(i) Municipal or other government facilities;

(ii) Educational facilities or portions thereof;

(iii) Institutional facilities or portions thereof;

(iv) Restaurants;

(v) Farming, ranching, or dairy farming operations;

(vi) Residential uses; or

(vii) Other installations not used for direct manufacturing purposes.

(d) In RCW 19.28.901, "industrial control panel" means a factory or user wired assembly of industrial control equipment such as motor controllers, switches, relays, power supplies, computers, cathode ray tubes, transducers, and auxiliary devices used in the manufacturing process to control industrial utilization equipment. The panel may include disconnecting means and motor branch circuit protective devices. Industrial control panels include only those used in a manufacturing process in a food processing or industrial plant.

(e) "Industrial plants" include buildings or facilities used in a manufacturing process or a manufacturing training facility (e.g., educational shop area in an educational or institutional facility), but do not include:

(i) Municipal or other government facilities;

(ii) Other educational facilities or portions thereof;

(iii) Other institutional facilities or portions thereof;

(iv) Restaurants;

(v) Farming, ranching, or dairy farming operations;

(vi) Residential uses; or

(vii) Other installations not used for direct manufacturing purposes.

(f) "Industrial utilization equipment" means equipment directly used in a manufacturing process in a food processing or industrial plant, in particular the processing, treatment, moving, or packaging of a material. Industrial utilization equipment does not include: Cold storage, warehousing, or similar storage equipment.

(g) "Manufacturing process" means to make or process a raw material or part into a finished product for sale using industrial utilization equipment. A manufacturing process does not include the storage of a product for future distribution (e.g., cold storage, warehousing, and similar storage activity).

(h) "Normal department inspection" is a part of the department electrical inspection process included with the general wiring inspection of a building, structure, or other electrical installation. Normal department inspection will only be made for equipment solely using listed or field evaluated components and wired to the requirements of the NEC. Fees for the normal department inspections required under

this chapter are included in the electrical work permit fee calculated for the installation and are not a separate inspection fee. However, inspection time associated with such equipment is subject to the progress inspection rates in Part C of this chapter.

(i) For the purposes of this section, "panel" means a single box or enclosure containing the components comprising an industrial control panel. A panel does not include any wiring methods connecting multiple panels or connecting a panel(s) and other electrical equipment.

(6) Industrial control panels and industrial utilization equipment will be determined to meet the minimum electrical safety standards for installations by:

(a) Listing or field evaluation of the entire panel or equipment;

(b) Normal department inspection for compliance with codes and rules adopted under this chapter; or

(c) An engineering evaluation review where an engineer, accredited by the department, shows the equipment to be in compliance with an appropriate industrial equipment standard(s).

(i) See WAC 296-46B-997 for the requirements to become an accredited engineer.

(ii) The engineer may review equipment upon request by the equipment owner or the equipment manufacturer.

(iii) The engineer must notify the department of the intent to evaluate and submit a final approval report, within 10 days after applying the approval label or disapproving the equipment, using forms provided by the department. See Part C of this chapter for fee information.

(iv) The equipment may be reviewed for compliance with the standard(s) before the equipment is located in Washington.

(v) Appropriate standards are:

(A) NEMA;

(B) ANSI;

(C) NFPA 79;

(D) UL 508A;

(E) International Electrotechnical Commission 60204;

or

(F) Their equivalent.

(vi) In cases where equipment has been previously reviewed and approved by an accredited engineer or the department and found to meet an appropriate standard(s), the equipment information will be placed on a "reviewed and approved industrial utilization equipment list" established and maintained by the department. The list may be used by a reviewing engineer to aid in evaluating other like equipment. Because standards change over time, equipment will be removed from the list three years after the last successful review. The list will contain the following information:

(A) Equipment manufacturer name;

(B) Model and serial numbers;

(C) Voltage, full load current; phasing; and asymmetrical fault current rating of the equipment;

(D) Accessory items approved for use with the equipment;

(E) Standard(s) to which the equipment was built;

(F) Application of use for the equipment;

(G) Original reviewing engineer's name; and

(H) Date of the original review approval.

(vii) If the engineer uses the "reviewed and approved industrial utilization equipment list," the engineer will visually determine that the equipment being reviewed is the exact same model as equipment on the list.

(viii) Before the engineer's approval label can be applied, the engineer must visually inspect the equipment on site to determine that the equipment is in factory original good condition, has not been modified electrically, and the equipment use is appropriate to the standard(s).

(ix) When the review is completed and the equipment is eligible for approval, the engineer must personally affix a permanent label to the equipment showing:

(A) Engineer's name;

(B) Date of approval;

(C) Equipment serial number;

(D) Equipment voltage, full load current, phasing, and fault interrupting rating; and

(E) The following statement: "This equipment meets appropriate standards for industrial utilization equipment."

(7) The department may authorize, on a case-by-case basis, use of the industrial control panel or equipment, for a period not to exceed six months or as approved by the chief electrical inspector after use is begun, before its final inspection, listing, field evaluation, or engineering evaluation is complete.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-906 Inspection fees. To calculate inspection fees, the amperage is based on the conductor ampacity or the overcurrent device rating. The total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) of this section, PROGRESS INSPECTIONS.

The amount of the fee due is calculated based on the fee effective at the date of a department assessed fee (e.g., plan review or fee due) or when the electrical permit is purchased.

(1) Residential.

(a) Single- and two-family residential (New Construction).

Notes:

(1) Square footage is the area included within the surrounding exterior walls of a building exclusive of any interior courts. (This includes any floor area in an attached garage, basement, or unfinished living space.)

(2) "Inspected with the service" means that a separate service inspection fee is included on the same electrical work permit.

(3) "Inspected at the same time" means all wiring is to be ready for inspection during the initial inspection trip.

(4) An "outbuilding" is a structure that serves a direct accessory function to the residence, such as a pump house or storage building. Outbuilding does not include buildings used for commercial type occupancies or additional dwelling occupancies.

(i) First 1300 sq. ft. \$73.00

Each additional 500 sq. ft. or portion of \$23.40

(ii) Each outbuilding or detached garage - inspected at the same time as a dwelling unit on the property \$30.50

(iii) Each outbuilding or detached garage - inspected separately \$48.10

(iv) Each swimming pool - inspected with the service \$48.10

(v) Each swimming pool - inspected separately \$73.00

(vi) Each hot tub, spa, or sauna - inspected with the service	\$30.50
(vii) Each hot tub, spa, or sauna - inspected separately	\$48.10
(viii) Each septic pumping system - inspected with the service	\$30.50
(ix) Each septic pumping system - inspected separately	\$48.10
(b) Multifamily residential and miscellaneous residential structures, services and feeders (New Construction).	

Each service and/or feeder

Ampacity	Service/Feeder	Additional Feeder
0 to 200	\$78.70	\$23.40
201 to 400	\$97.80	\$48.10
401 to 600	\$134.30	\$66.90
601 to 800	\$172.30	\$91.80
801 and over	\$245.70	\$184.30

(c) Single or multifamily altered services or feeders including circuits.

(i) Each altered service and/or altered feeder

Ampacity	Service/Feeder
0 to 200	\$66.90
201 to 600	\$97.80
601 and over	\$147.40

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder) \$36.30

(d) Single or multifamily residential circuits only (no service inspection).

Note:

Altered or added circuit fees are calculated per panelboard. Total cost of the alterations in an individual panel should not exceed the cost of a complete altered service or feeder of the same rating, as shown in subsection (1) RESIDENTIAL (c) (table) of this section.

(i) 1 to 4 circuits (see note above) \$48.10

(ii) Each additional circuit (see note above) \$5.30

(e) Mobile homes, modular homes, mobile home parks, and RV parks.

(i) Mobile home or modular home service or feeder only \$48.10

(ii) Mobile home service and feeder \$78.70

(f) Mobile home park sites and RV park sites.

Note:

For master service installations, see subsection (2) COMMERCIAL/INDUSTRIAL of this section.

(i) First site service or site feeder \$48.10

(ii) Each additional site service; or additional site feeder \$30.50
inspected at the same time as the first service or feeder

(2) Commercial/industrial.

(a) New service or feeder, and additional new feeders inspected at the same time (includes circuits).

Note:

For large COMMERCIAL/INDUSTRIAL projects that include multiple feeders, "inspected at the same time" can be interpreted to include additional inspection trips for a single project. The additional inspections must be for electrical work specified on the permit at the time of purchase. The permit fee for such projects must be calculated ((from (2)(a)(i)(table) of) using this section. However, the total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) PROGRESS INSPECTIONS of this section.

Ampacity	Service/Feeder	Additional Feeder
0 to 100	\$78.70	\$48.10
101 to 200	\$95.80	\$61.30
201 to 400	\$184.30	\$73.00

Ampacity	Service/Feeder	Additional Feeder
401 to 600	\$214.80	\$85.80
601 to 800	\$277.70	\$116.90
801 to 1000	\$339.00	\$141.40
1001 and over	\$369.80	\$197.30

(b) Altered services/feeder (no circuits).

(i) Service/feeder

Ampacity	Service/Feeder
0 to 200	\$78.70
201 to 600	\$184.30
601 to 1000	\$277.70
1001 and over	\$308.40

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder) \$66.90

(c) Circuits only.**Note:**

Altered/added circuit fees are calculated per panelboard. Total cost of the alterations in a panel (or panels) should not exceed the cost of a new feeder (or feeders) of the same rating, as shown in subsection (2) COMMERCIAL/INDUSTRIAL (2)(a)((+))((table)) above.

(i) First 5 circuits per branch circuit panel \$61.30

(ii) Each additional circuit per branch circuit panel \$5.30

(d) Over 600 volts surcharge per permit. \$61.30**(3) Temporary service(s).****Note:**

(1) See WAC ((296-46B-527)) 296-46B-590 for information about temporary installations.

(2) Temporary stage or concert inspections requested outside of normal business hours will be subject to the portal-to-portal hourly fees in subsection (11) OTHER INSPECTIONS. The fee for such after hours inspections shall be the greater of the fee from this subsection or the portal-to-portal fee.

Temporary services, temporary stage or concert productions.

Ampacity	Service/Feeder	Additional Feeder
0 to 60	\$42.20	\$21.60
61 to 100	\$48.10	\$23.40
101 to 200	\$61.30	\$30.50
201 to 400	\$73.00	\$36.40
401 to 600	\$97.80	\$48.10
601 and over	\$110.90	\$55.30

(4) Irrigation machines, pumps, and equipment.**Irrigation machines.**

(a) Each tower - when inspected at the same time as a service and feeder from (2) COMMERCIAL/INDUSTRIAL \$5.30

(b) Towers - when not inspected at the same time as a service and feeder - 1 to 6 towers \$73.00

(c) Each additional tower \$5.30

(5) Miscellaneous - commercial/industrial and residential.

(a) A Class 2 low-voltage thermostat and its associated cable controlling a single piece of utilization equipment or a single furnace and air conditioner combination.

(i) First thermostat \$36.40

(ii) Each additional thermostat inspected at the same time as the first \$11.40

(b) Class 2 or 3 low-voltage systems and telecommunications systems.

Includes all telecommunications installations, fire alarm, nurse call, energy management control systems, industrial and automation control systems, lighting control systems, and similar Class 2 or 3 low-energy circuits and equipment not included in WAC ((296-46B-110)) 296-46B-908 for Class B work.

(i) First 2500 sq. ft. or less \$42.20

(ii) Each additional 2500 sq. ft. or portion thereof \$11.40

(c) Signs and outline lighting.

(i) First sign (no service included) \$36.40

(ii) Each additional sign inspected at the same time on the same building or structure \$17.30

(d) Berth at a marina or dock.**Note:**

Five berths or more shall be permitted to have the inspection fees based on appropriate service and feeder fees from section (2) COMMERCIAL/INDUSTRIAL ((a)(+))) above.

(i) Berth at a marina or dock \$48.10

(ii) Each additional berth inspected at the same time \$30.50

(e) Yard pole, pedestal, or other meter loops only.

(i) Yard pole, pedestal, or other meter loops only \$48.10

(ii) Meters installed remote from the service equipment and inspected at the same time as a service, temporary service or other installations \$11.40

(f) Emergency inspections requested outside of normal working hours.

Regular fee plus surcharge of: \$91.80

(g) Generators.**Note:**

Permanently installed generators: Refer to the appropriate residential or commercial new/ altered service or feeder section.

Portable generators: Permanently installed transfer equipment for portable generators \$66.90

(h) Electrical - annual permit fee.**Note:**

See WAC((296-46B-900)) 296-46B-901(14).

For commercial/industrial location employing full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor. Note, all yearly maintenance contracts must detail the number of contractor electricians necessary to complete the work required under the contract. This number will be used as a basis for calculating the appropriate fee. Each inspection is based on a 2-hour maximum.

	Inspections	Fee
1 to 3 plant electricians	12	\$1,765.50
4 to 6 plant electricians	24	\$3,532.80
7 to 12 plant electricians	36	\$5,298.90
13 to 25 plant electricians	52	\$7,066.20
More than 25 plant electricians	52	\$8,833.50

(i) Telecommunications - annual permit fee.**Notes:**

(1) See WAC ((296-46B-900)) 296-46B-901(13).

(2) Annual inspection time required may be estimated by the purchaser at the rate for "OTHER INSPECTIONS" in this section, charged portal-to-portal per hour.

For commercial/industrial location employing full-time telecommunications maintenance staff or having a yearly maintenance contract with a licensed electrical/telecommunications contractor.

2-hour minimum \$146.10

Each additional hour, or portion thereof, of portal-to-portal inspection time \$73.00

(j) Permit requiring ditch cover inspection only.		
Each 1/2 hour, or portion thereof	\$36.40	
(k) Cover inspection for elevator/conveyance installation. This item is only available to a licensed/registered elevator contractor.	\$61.30	
(6) Carnival inspections.		
(a) First carnival field inspection each calendar year.		
(i) Each ride and generator truck	\$17.30	
(ii) Each remote distribution equipment, concession, or gaming show	\$5.30	
(iii) If the calculated fee for first carnival field inspection above is less than \$89.00, the minimum inspection fee shall be:	\$91.80	
(b) Subsequent carnival inspections.	\$91.80	
(i) First ten rides, concessions, generators, remote distribution equipment, or gaming show	\$5.30	
(ii) Each additional ride, concession, generator, remote distribution equipment, or gaming show	\$73.00	
(c) Concession(s) or ride(s) not part of a carnival.	\$48.10	
(i) First field inspection each year of a single concession or ride, not part of a carnival	\$73.00	
(ii) Subsequent inspection of a single concession or ride, not part of a carnival	\$73.00	
(7) Trip fees.		
(a) Requests by property owners to inspect existing installations. (This fee includes a maximum of one hour of inspection time. All inspection time exceeding one hour will be charged at the rate for progressive inspections.)	\$36.40	
(b) Submitter notifies the department that work is ready for inspection when it is not ready.	\$36.40	
(c) Additional inspection required because submitter has provided the wrong address or incomplete, improper or illegible directions for the site of the inspection.	\$36.40	
(d) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work.	\$36.40	
(e) Each trip necessary to remove a noncompliance notice.	\$36.40	
(f) Corrections that have not been made in the prescribed time, unless an exception has been requested and granted.	\$36.40	
(g) Installations that are covered or concealed before inspection.	\$36.40	
(8) Progress inspections.		
Note:		
The fees calculated in subsections (1) through (6) of this section will apply to all electrical work. This section will be applied to a permit where the permit holder has requested additional inspections beyond the number supported by the permit fee calculated at the rate in subsections (1) through (6) of this section.		
On partial or progress inspections, each 1/2 hour.	\$36.40	
(9) Plan review.	\$61.30	
Fee is thirty-five percent of the electrical work permit fee as determined by WAC ((296-46B-905)) <u>296-46B-906</u> , plus a plan review submission and shipping/handling fee of:		
(a) Supplemental submissions of plans per hour or fraction of an hour of review time.	\$73.00	
(b) Plan review shipping and handling fee.	\$17.30	
(10) Out-of-state inspections.		
(a) Permit fees will be charged according to the fees listed in this section.		
(b) Travel expenses:		
All travel expenses and per diem for out-of-state inspections are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in subsection (11) of this section.		
(11) Other inspections.		
Inspections not covered by above inspection fees must be charged portal-to-portal per hour:	\$73.00	
(12) ((Refund processing fee.		
All requests for permit fee refunds will be assessed a processing fee. (Refund processing fees will not be charged for electrical contractors, using the contractor deposit system, who request less than twenty-four refunds during a rolling calendar year.)	\$11.40	
((13)) Variance request processing fee.		
Variance request processing fee. This fee is nonrefundable once the transaction has been validated.	\$73.00	
((14)) (13) Marking of industrial utilization equipment.		
(a) Standard(s) letter review (per hour of review time).	\$73.00	
(b) Equipment marking - charged portal-to-portal per hour:	\$73.00	
(c) All travel expenses and per diem for in/out-of-state review and/or equipment marking are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in (b) of this subsection.		
((15)) (14) Class B basic electrical work labels.		
(a) Block of twenty Class B basic electrical work labels (not refundable).	\$200.00	
(b) Reinspection of Class B basic electrical work to assure that corrections have been made (per 1/2 hour timed from leaving the previous inspection until the reinspection is completed). See WAC ((296-46B-110(8))) <u>296-46B-908(5)</u> .	\$36.40	
(c) Reinspection of Class B basic electrical work because of a failed inspection of another Class B label (per 1/2 hour from previous inspection until the reinspection is completed). See WAC ((296-46B-110(8))) <u>296-46B-908(5)</u> .	\$36.40	
((16)) (15) Provisional electrical work permit labels.		
Block of twenty provisional electrical work permit labels.	\$200.00	

PART D - PROVISIONAL PERMITS

NEW SECTION

WAC 296-46B-907 Provisional permits.

Provisional electrical work permit - use/duration/ refunds.

(1) Only licensed electrical or telecommunications contractors can use provisional electrical work permits.

(2) If a provisional electrical work permit label is used, the following requirements must be met:

(a) Prior to beginning the work, the certified electrician or telecommunications worker performing the installation must affix the provisional electrical work permit label on the cover of the panelboard, overcurrent device, or telecommunications equipment supplying the circuit or equipment.

(b) The job site portion of the label must include the following:

- (i) Date the work is begun;
- (ii) Contractor's name;
- (iii) Contractor's license number; and
- (iv) Short description of the work.
- (c) The contractor portion of the label must include the following:
 - (i) Date the work is begun;
 - (ii) Contractor's license number;
 - (iii) Job site address;
 - (iv) Owner's name; and
 - (v) Short description of the work.
- (d) The label must be filled in using sunlight and weather resistant ink.
- (e) The contractor must return the contractor's portion of the label to the department of labor and industries, electrical section office having jurisdiction for the inspection, within two working days after the job site portion of the label is affixed. Either receipt by department of labor and industries or postmark to a valid department of labor and industries electrical address is acceptable for meeting this requirement.
- (f) The contractor must return the contractor's portion of the label to the department of labor and industries, chief electrical inspector, within five working days after destroying or voiding any label.
- (g) The contractor is responsible for safekeeping of all purchased labels.

(3) Refunds are not available for provisional electrical work permit labels.

(4) Provisional electrical work permit labels will be sold in blocks of twenty.

(5) Any contractor purchasing a provisional electrical work permit label may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

PART E - CLASS B PERMITS

NEW SECTION

WAC 296-46B-908 Class B permits.

Class B electrical work permit - use.

(1) The electrical contractor must return the contractor's portion of the Class B label to the department of labor and industries, chief electrical inspector, within five working days after destroying or voiding any label.

(2) The electrical contractor is responsible for safekeeping of all purchased Class B labels.

(3) Only licensed electrical/telecommunication contractors can use the Class B basic electrical inspection random inspection process. Health care, large commercial or industrial facilities using an employee who is a certified electrician(s) can use the Class B random electrical inspection process after permission from the chief electrical inspector.

(4) If the Class B random electrical inspection process is used, the following requirements must be met:

(a) The certified electrician/telecommunications worker performing the installation must affix a Class B installation label on the cover of the panelboard or overcurrent device supplying power to the circuit or equipment prior to beginning the work.

(b) The job site portion of the label must include the following:

- (i) Date of the work;
- (ii) Electrical/telecommunication contractor's name;
- (iii) Electrical/telecommunication contractor's license number;

(iv) Installing electrician's certificate number, except for telecommunication work. For thermostat installations described in WAC 296-46B-965(15), the installing trainee may enter their training certificate number; and

- (v) Short description of the work.

(c) The contractor portion of the label must include the following:

- (i) Date of the work;
- (ii) Electrical/telecommunication contractor's license number;

(iii) Installing electrician's certificate number, except for telecommunication work;

- (iv) Job site address;

(v) Contact telephone number for the job site (to be used to arrange inspection); and

- (vi) Short description of the work.

(d) The label must be filled in using sunlight and weather resistant ink.

(e) The electrical/telecommunication contractor must return the contractor's portion of the label to the Department of Labor and Industries, Electrical Section, Chief Electrical Inspector, P.O. Box 44460, Olympia, WA 98504-4460 within fifteen working days after the job site portion of the Class B installation label is affixed.

(5) Class B basic installation labels will be sold in blocks. Installations where a Class B basic installation label is used will be inspected on a random basis as determined by the department.

(a) If any such random inspection fails, a subsequent label in the block must be inspected.

(b) If any such subsequent installation fails inspection, another label in the block must be inspected until a label is approved without a correction(s).

(c) A fee is required for any inspection required when a correction(s) is issued as a result of the inspection of any Class B label or if an inspection is required because of (a) or (b) of this subsection. See Part C of this chapter for fees.

(6) Any electrical/telecommunication contractor or other entity using the Class B basic electrical inspection random inspection process may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

(7) Class B basic electrical work means work other than Class A basic electrical work. See WAC 296-46B-901(8) for Class A definition.

(a) Class B basic electrical work includes the following:

(i) Extension of not more than one branch electrical circuit limited to 120 volts and 20 amps each where:

(A) No cover inspection is necessary. For the purposes of this section, cover inspection does not include work covered by any surface that may be removed for inspection without damaging the surface; and

(B) The extension does not supply more than two devices or outlets as defined by the NEC. A device allowed

in an extended circuit includes: General use snap switches/receptacles, luminaires, thermostats, speakers, etc., but does not include wiring/cabling systems, isolating switches, magnetic contactors, motor controllers, etc.

(ii) Like-in-kind replacement of:

(A) A single luminaire not exceeding 277 volts and 20 amps; or

(B) A motor larger than 10 horsepower; or

(C) The internal wiring of a furnace, air conditioner, refrigeration unit or household appliance; or

(D) An electric/gas/oil furnace not exceeding 240 volts and 100 amps when the furnace is connected to an existing branch circuit. For the purposes of this section, a boiler is not a furnace; or

(E) An individually controlled electric room heater (e.g., baseboard, wall, fan forced air, etc.), air conditioning unit or refrigeration unit not exceeding 240 volts, 30 minimum circuit amps when the unit is connected to an existing branch circuit; or

(F) Circuit modification required to install not more than five residential load control devices in a residence where installed as part of an energy conservation program sponsored by an electrical utility and where the circuit does not exceed 240 volts and 30 amps.

(iii) The following low voltage systems:

(A) Repair and replacement of devices not exceeding 100 volt-amperes in Class 2, Class 3, or power limited low voltage systems in one- and two-family dwellings; or

(B) Repair and replacement of devices not exceeding 100 volt-amperes in Class 2, Class 3, or power limited low voltage systems in other buildings, provided the equipment is not for fire alarm or nurse call systems and is not located in an area classified as hazardous by the NEC; or

(C) The installation of Class 2 or 3 device(s) or wiring for thermostat, audio, security, burglar alarm, intercom, amplified sound, public address, or access control systems. This does not include fire alarm, nurse call, lighting control, industrial automation/control or energy management systems; or

(D) Telecommunications cabling and equipment requiring inspection in RCW 19.28.470;

(iv) The replacement of not more than ten standard receptacles with GFCI receptacles;

(v) The conversion of not more than ten snap switches to dimmers for the use of controlling a luminaire(s) conversion.

(b) Class B basic electrical work does not include any work in:

(i) Areas classified as Class I, Class II, Class III, or Zone locations per NEC 500; or

(ii) Areas regulated by NEC 517 or 680; or

(iii) Any work where electrical plan review is required; or

(iv) Fire alarm, nurse call, lighting control, industrial automation/control or energy management systems.

(8) An entity using a Class B basic inspection label is restricted to using no more than two labels per week per job site.

PART F - ADMINISTRATIVE

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-909 Electrical/telecommunications contractor's license, administrator certificate and examination, master electrician certificate and examination, electrician certificate and examination, temporary electrician permit, copy, and miscellaneous fees.

Notes:

- (1) The department will deny renewal of a license, certificate, or permit if an individual owes money as a result of an outstanding final judgment(s) to the department or is in revoked status. The department will deny application of a license, certificate, or permit if an individual is in suspended status or owes money as a result of an outstanding final judgment(s) to the electrical program.
- (2) Certificates may be prorated for shorter renewal periods in one-year increments. Each year or part of a year will be calculated to be one year.
- (3) The amount of the fee due is calculated based on the fee effective at the date payment is made.

(1) General or specialty contractor's license per twenty-four month period. (Nonrefundable after license has been issued.)

(a) ((Per twenty four month period) \$232.90

(b)) Initial application or renewal made in person, by mail, or by fax

(b) Renewal fully completed using the on-line web process \$221.00

(c) Reinstatement of a general or specialty contractor's license after a suspension \$47.30

(2) Master electrician/administrator/electrician/trainee certificate.

(a) Examination application (nonrefundable)

Administrator certificate examination application. \$29.30
(Required only for department administered examinations.) (Not required when testing with the department's contractor.)

(b) Examination fees (nonrefundable)

Note:

Normal examination administration is performed by a state authorized contractor. The fees for such examinations are set by contract with the department. For written examinations administered by the department, use the following fee schedule.

(i) Master electrician or administrator first-time examination fee (when administered by the department) \$70.50

(ii) Master electrician or administrator retest examination fee (when administered by the department) \$82.50

(iii) Journeyman or specialty electrician examination fee (first test or retest when administered by the department) \$53.00

(iv) Certification examination review fee \$109.20

(c) Original certificates (nonrefundable after certificate has been issued)

(i) Electrical administrator original certificate (except 09 telecommunication) \$105.40

(ii) Telecommunications administrator original certificate (for 09 telecommunications) \$70.20

(iii) Master electrician exam application (includes original certificate and application processing fee) (\$29.30 is nonrefundable after application is submitted) \$134.70

(iv) Journeyman or specialty electrician application (includes original certificate and application processing fee) (\$29.30 is nonrefundable after application is submitted) \$75.60

(v) Training certificate	(((\$37.10))	(ii) Journeyman or specialty electrician reciprocal certificate (includes original certificate and application processing fee) (\$29.30 is nonrefundable after application is submitted)	\$75.60
(A) Initial application made in person, by mail, or by fax	\$37.10		
(B) Initial application fully completed on-line using the on-line web process	\$35.00		
(C) 0% supervision modified training certificate. Includes trainee update of hours (i.e., submission of affidavit of experience) (\$44.90 is nonrefundable after application is submitted)	\$67.40	(f) Certificate - reinstatement (nonrefundable)	
((B)) (D) 75% supervision modified training certificate.	\$44.90	(i) Reinstatement of a suspended master electrician or administrator's certificate (in addition to normal renewal fee)	\$47.30
((C)) (E) Unsupervised training certificate as allowed by RCW 19.28.161 (4)(b).	\$22.40	(ii) Reinstatement of suspended journeyman, or specialty electrician certificate (in addition to normal renewal fee)	\$22.40
(vi) Temporary electrician permit (valid as allowed and described in WAC 296-46B-940(27))	\$23.40	(g) Assignment/unassignment of master electrician/administrator designation (nonrefundable)	\$35.00
(d) Certificate renewal (nonrefundable)		(3) Certificate/license.	
(i) Master electrician or administrator certificate renewal	(((\$133.20))	(a) Replacement for lost or damaged certificate/license. (Nonrefundable.)	\$15.40
(A) Renewal made in person, by mail, or by fax	\$133.20	(b) Optional display quality General Master Electrician certificate.	\$25.00
(B) Renewal fully completed using the on-line web process	\$127.00	(4) Continuing education courses or instructors. (Nonrefundable.)	
(ii) Telecommunications (09) administrator certificate renewal	(((\$88.80))	(a) If the course or instructor review is performed by the electrical board or the department	
(A) Renewal made in person, by mail, or by fax	\$88.80	The course or instructor review	\$45.00
(B) Renewal fully completed using the on-line web process	\$84.00	(b) If the course or instructor review is contracted out by the electrical board or the department	
(iii) Late renewal of master electrician or administrator certificate	(((\$266.40))	(i) Continuing education course or instructor submittal and approval (per course or instructor)	As set in contract
(A) Renewal made in person, by mail, or by fax	\$266.40	(ii) Applicant's request for review, by the chief electrical inspector, of the contractor's denial	\$109.50
(B) Renewal fully completed using the on-line web process	\$254.00	(5) Copy fees. (Nonrefundable.)	
(iv) Late renewal of telecommunications (09) administrator certificate	(((\$177.60))	(a) Certified copy of each document (maximum charge per file):	\$49.80
(A) Renewal made in person, by mail, or by fax	\$177.60	(i) First page:	\$22.40
(B) Renewal fully completed using the on-line web process	\$168.00	(ii) Each additional page:	\$2.00
(v) Journeyman or specialty electrician certificate renewal	(((\$70.20))	(b) Replacement RCW/WAC printed document:	\$5.00
(A) Renewal made in person, by mail, or by fax	\$70.20	(6) ((Refund processing fee. (Nonrefundable.))	\$11.40
(B) Renewal fully completed using the on-line web process	\$67.00	(7) Training school program review fees. Initial training school program review fee. (Nonrefundable.)	
(vi) Late renewal of journeyman or specialty electrician certificate	(((\$140.50))	(a) Initial training school program review fee submitted for approval. Valid for three years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$516.00
(A) Renewal made in person, by mail, or by fax	\$140.40	(b) Renewal of training school program review fee submitted for renewal. Valid for 3 years or until significant changes in program content or course length are implemented (see WAC 296-46B-971(4)).	\$258.00
(B) Renewal fully completed using the on-line web process	\$134.00		
(vii) Trainee update of hours outside of renewal period (i.e., submission of affidavit of experience outside of the timeline in WAC 296-46B-965 (7)(d))	\$44.90		
((vii)) (viii) Trainee certificate renewal ((or update of hours (i.e., submission of affidavit of experience))	\$44.90))		
(A) Renewal made in person, by mail, or by fax	\$44.90		
(B) Renewal fully completed using the on-line web process when the affidavit of experience is submitted per WAC 296-46B-965 (7)(d)	\$43.00		
(ix) Late trainee certificate renewal			
(A) Renewal made in person, by mail, or by fax	\$63.00		
(B) Renewal fully completed using the on-line web process	\$60.00		
(e) Reciprocal certificate (nonrefundable after certificate has been issued)			
(i) Master electrician reciprocal certificate (includes original certificate and application processing fee) (\$29.30 is nonrefundable after application is submitted)	\$((+32.20))		
	133.30		

AMENDATORY SECTION (Amending WSR 06-05-028, filed 2/7/06, effective 5/1/06)

WAC 296-46B-915 Civil penalty schedule. Each day that a violation occurs will be a separate offense.

Once a violation of chapter 19.28 RCW or chapter 296-46B WAC becomes a final judgment, any additional violation within three years becomes a "second" or "additional" offense subject to an increased penalty as set forth in the following tables.

In case of continued, repeated or gross violation of the provisions of chapter 19.28 RCW or this chapter, or if property damage or bodily injury occurs as a result of the failure of a person, firm, partnership, corporation, or other entity to comply with chapter 19.28 RCW or this chapter the depart-

ment may double the penalty amounts shown in subsections (1) through (13) of this section.

Continued or repeated violation may occur if the person, firm, partnership, corporation or other entity who violates a provision of chapter 19.28 RCW, chapter 296-46B WAC has received one or more written warnings of a similar violation within a one-year period.

A person, firm, partnership, corporation or other entity who violates a provision of chapter 19.28 RCW or chapter 296-46B WAC is liable for a civil penalty based upon the following schedule.

(1) Offering to perform, submitting a bid for, advertising, installing or maintaining cables, conductors or equipment:

- (a) That convey or utilize electrical current without having a valid electrical contractor's license.
- (b) Used for information generation, processing, or transporting of signals optically or electronically in telecommunications systems without having a valid telecommunications contractor's license.

First offense:	\$500
Second offense:	\$1,500
Third offense:	\$3,000
Each offense thereafter:	\$6,000

(2) Employing an individual for the purposes of chapter 19.28 RCW who does not possess a valid certificate of competency or training certificate to do electrical work.

First offense:	\$250
Each offense thereafter:	\$500

(3) Performing electrical work without having a valid certificate of competency or electrical training certificate.

First offense:	\$250
Each offense thereafter:	\$500

(4) Employing electricians and electrical trainees for the purposes of chapter 19.28 RCW in an improper ratio. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.

First offense:	\$250
Each offense thereafter:	\$500

(5) Failing to provide proper supervision to an electrical trainee as required by chapter 19.28 RCW. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.

First offense:	\$250
Each offense thereafter:	\$500

(6) Working as an electrical trainee without proper supervision as required by chapter 19.28 RCW.

First offense:	\$50
Second offense:	\$250
Each offense thereafter:	\$500

(7) Offering, bidding, advertising, or performing electrical or telecommunications installations, alterations or maintenance outside the scope of the firm's specialty electrical or telecommunications contractors license.

First offense:	\$500
Second offense:	\$1,500
Third offense:	\$3,000
Each offense thereafter:	\$6,000

(8) Selling or exchanging electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs which are not listed by an approved laboratory.

First offense:	\$500
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Second offense:	\$1,000
Each offense thereafter:	\$2,000

Definition:

The sale or exchange of electrical equipment associated with hot tubs, spas, swimming pools or hydromassage bathtubs includes to: "Sell, offer for sale, advertise, display for sale, dispose of by way of gift, loan, rental, lease, premium, barter or exchange."

(9) Covering or concealing installations prior to inspection.

First offense:	\$250
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(10) Failing to make corrections within fifteen days of notification by the department.

Exception:

Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.

First offense:	\$250
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(11) Failing to obtain or post an electrical/telecommunications work permit or provisional electrical work permit label prior to beginning the electrical/telecommunications installation or alteration.

Exception:

In cases of emergency repairs, for owners, to existing electrical/telecommunications systems, this penalty will not be charged if the permit is obtained and posted no later than the business day following beginning work on the emergency repair.

First offense:	\$250
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(12) Violating chapter 19.28 RCW duties of the electrical/telecommunications administrator or master electrician.

(a) Failing to be a member of the firm or a supervisory employee and shall be available during working hours to carry out the duties of an administrator or master electrician.

First offense:	\$1,000
Second offense:	\$1,500
Each offense thereafter:	\$3,000

(b) Failing to ensure that all electrical work complies with the electrical installation laws and rules of the state.

First offense:	\$100
Second offense:	\$250
Third offense:	\$1,000
Each offense thereafter:	\$3,000

(c) Failing to ensure that the proper electrical safety procedures are used.

First offense:	\$500
Second offense:	\$1,500
Each offense thereafter:	\$3,000

(d) Failing to ensure that all electrical labels, permits, and certificates required to perform electrical work are used.

First offense:	\$250
Each offense thereafter:	\$500
Each offense thereafter:	\$500
Each offense thereafter:	\$500

(e) Failing to ensure that all electrical licenses, required to perform electrical work are used (i.e., work performed must be in the allowed scope of work for the contractor).

First offense:	\$500
Second offense:	\$1,500
Third offense:	\$3,000
Each offense thereafter:	\$6,000

(f) Failing to see that corrective notices issued by an inspecting authority are complied with within fifteen days.

Exception: Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.

First offense:	\$250
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Second offense:	\$1,000
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Each offense thereafter:	\$2,000
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(g) Failing to notify the department in writing within ten days if the master electrician or administrator terminates the relationship with the electrical contractor.

First offense:	\$500
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Second offense:	\$1,000
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Each offense thereafter:	\$3,000
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(13) Violating any of the provisions of chapter 19.28 RCW or chapter 296-46B WAC which are not identified in subsections (1) through (12) of this section.

RCW 19.28.161 through 19.28.271 and the rules developed pursuant to them.

First offense:	\$250
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Each offense thereafter:	\$500
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All other chapter 19.28 RCW provisions and the rules developed pursuant to them.

First offense:	\$250
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Second offense:	\$750
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Each offense thereafter:	\$2,000
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AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work. (1) **General electrical (01):** A general electrical license and/or certificate encompasses all phases and all types of electrical and telecommunications installations and minor plumbing under RCW 18.106.150. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater).

(2) All specialties listed in this subsection may perform the electrical work described within their specific specialty as allowed by the occupancy and location described within the specialty's scope of work. Except for residential (02), the scope of work for these specialties does not include plumbing work regulated under chapter 18.106 RCW. See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty. For the purposes of RCW 18.106.150, the like-in-kind replacement includes the appliance or any component part of the appliance (e.g., such as, but not limited to, the thermostat in a water heater). **Specialty (limited)** electrical licenses and/or certificates are as follows:

(a) **Residential (02):** Limited to the telecommunications, low voltage, and line voltage wiring of one- and two-family dwellings, or multifamily dwellings not exceeding three stories above grade. All wiring is limited to nonmetallic sheathed cable, except for services and/or feeders, exposed installations where physical protection is required, and for wiring buried below grade.

(i) This specialty also includes the wiring for ancillary structures such as, but not limited to: Appliances, equipment, swimming pools, septic pumping systems, domestic water

systems, limited energy systems (e.g., doorbells, intercoms, fire alarm, burglar alarm, energy control, HVAC/refrigeration, etc.), multifamily complex offices/garages, site lighting when supplied from the residence or ancillary structure, and other structures directly associated with the functionality of the residential units.

(ii) This specialty does not include wiring occupancies defined in WAC ((296-46B-901(13))) 296-46B-900(1), or commercial occupancies such as: Motels, hotels, offices, assisted living facilities, or stores.

(iii) See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty.

(b) **Pump and irrigation (03):** Limited to the electrical connection of circuits, feeders, controls, low voltage, related telecommunications, and services to supply: Domestic water systems and public water systems include but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls, and irrigation water pumps, circular irrigating system's pumps and pump houses.

This specialty may also perform the work defined in (c) of this subsection.

Also see RCW 18.106.010 (10)(c).

(c) **Domestic pump (03A):** Limited to the extension of a branch circuit, which is supplied and installed by others, to signaling circuits, motor control circuits, motor control devices, and pumps which do not exceed 7 1/2 horsepower at 250 volts AC single phase input power, regardless of motor controller output or motor voltage/phase, used in residential potable water or residential sewage disposal systems. Domestic water systems and public water systems include but are not limited to pumps, pressurization, filtration, treatment, or other equipment and controls.

Also see RCW 18.106.010 (10)(c).

(d) **Signs (04):** Limited to placement and connection of signs and outline lighting, the electrical supply, related telecommunications, controls and associated circuit extensions thereto; and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only. This specialty may service, maintain, or repair exterior luminaires that are mounted on a pole or other structure with like-in-kind components.

(i) Electrical licensing/certification is not required to:

(A) Clean the nonelectrical parts of an electric sign;

(B) To form or pour a concrete pole base used to support a sign;

(C) To operate machinery used to assist an electrician in mounting an electric sign or sign supporting pole; or

(D) To assemble the structural parts of a billboard.

(ii) Electrical licensing/certification is required to:

Install, modify, or maintain a sign, sign supporting pole, sign face, sign ballast, lamp socket, lamp holder, disconnect switch, or any other part of a listed electric sign.

(e) **Limited energy system (06):** Limited to the installation of signaling and power limited circuits and related equipment. This specialty is restricted to low-voltage circuits. This specialty includes the installation of telecommunications, HVAC/refrigeration low-voltage wiring, fire protection signaling systems, intrusion alarms, energy management and control systems, industrial and automation control systems, lighting control systems, commercial and residential

amplified sound, public address systems, and such similar low-energy circuits and equipment in all occupancies and locations.

(i) For the purposes of this section, when a line voltage connection is removed and reconnected to a replacement component located inside the control cabinet, the replacement must be like-in-kind or replaced using the equipment manufacturer's authorized replacement component. The line voltage circuit is limited to 120 volts 20 amps maximum and must have a means of disconnect.

(ii) The limited energy systems (06) specialty may repair or replace line voltage connections terminated inside the cabinet to power supplies internal to the low voltage equipment provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the circuit.

(iii) The limited energy systems (06) specialty may not replace or modify the line voltage circuit or cabling or alter the means of connection of the line voltage circuit to the power supply or to the control cabinet.

Limited energy electrical contractors may perform all telecommunications work under their specialty (06) electrical license and administrator's certificate.

(f) HVAC/refrigeration systems:

(i) See WAC 296-46B-100 for specific HVAC/refrigeration definitions.

(ii) For the purposes of this section when a component is replaced, the replacement must be like-in-kind or made using the equipment manufacturer's authorized replacement component.

(iii) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may:

(A) Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all residential occupancies;

(B) Install, repair, replace, and maintain line voltage components within HVAC/refrigeration equipment. Such line voltage components include product illumination luminaires installed within and powered from the HVAC/refrigeration system (e.g., reach-in beverage coolers, frozen food cases, produce cases, etc.) and new or replaced factory authorized accessories such as internally mounted outlets;

(C) Repair, replace, or maintain the internal components of the HVAC/refrigeration equipment disconnecting means or controller so long as the disconnecting means or controller is not located within a motor control center or panelboard (see Figure 920-1 and Figure 920-2);

(D) Install, repair, replace, and maintain short sections of raceway to provide physical protection for low-voltage cables. For the purposes of this section a short section cannot mechanically interconnect two devices, junction boxes, or other equipment or components; and

(E) Repair, replace, or maintain line voltage flexible supply whips not over six feet in length, provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the whip. There is no limitation on the whip raceway method (e.g., metallic replaced by nonmetallic).

(iv) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may not:

(A) Install line voltage controllers or disconnect switches external to HVAC/refrigeration equipment;

(B) Install, repair, replace, or maintain:

- Integrated building control systems, other than HVAC/refrigeration systems;

- Single stand-alone line voltage equipment or components (e.g., heat cable, wall heaters, radiant panel heaters, baseboard heaters, contactors, motor starters, and similar equipment) unless the equipment or component:

- Is exclusively controlled by the HVAC/refrigeration system and requires the additional external connection to a mechanical system(s) (e.g., connection to water piping, gas piping, refrigerant system, ducting for the HVAC/refrigeration system, gas fireplace flume, ventilating systems, etc. (i.e., as in the ducting connection to a bathroom fan)). The external connection of the equipment/component to the mechanical system must be required as an integral component allowing the operation of the HVAC/refrigeration system; or

- Contains a HVAC/refrigeration mechanical system(s) (e.g., water piping, gas piping, refrigerant system, etc.) within the equipment (e.g., "through-the-wall" air conditioning units, self-contained refrigeration equipment, etc.);

- Luminaires that serve as a building or structure lighting source, even if mechanically connected to a HVAC/refrigeration system (e.g., troffer luminaire used as a return air device, lighting within a walk-in cooler/freezer used for personnel illumination);

- Raceway/conduit systems;

- Line voltage: Service, feeder, or branch circuit conductors. However, if a structure's feeder/branch circuit supplies HVAC/refrigeration equipment containing a supplementary overcurrent protection device(s), this specialty may install the conductors from the supplementary overcurrent device(s) to the supplemental HVAC/refrigeration equipment if the supplementary overcurrent device and the HVAC/refrigeration equipment being supplied are located within sight of each other (see Figure 920-2); or

- Panelboards, switchboards, or motor control centers external to HVAC/refrigeration system.

(v) HVAC/refrigeration (06A):

(A) This specialty is not limited by voltage, phase, or amperage.

(B) No unsupervised electrical trainee can install, repair, replace, or maintain any part of a HVAC/refrigeration system that contains any circuit rated over 600 volts whether the circuit is energized or deenergized.

(C) This specialty may:

- Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies:

- That have no more than three stories on/above grade; or

- Regardless of the number of stories above grade if the installation:

- Does not pass between stories;

- Is made in a previously occupied and wired space; and

- Is restricted to the HVAC/refrigeration system;

- Repair, replace, and maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wir-

ing/components in all occupancies regardless of the number of stories on/above grade.

- Install a bonding conductor for metal gas piping to an existing accessible grounding electrode conductor or grounding electrode only when terminations can be made external to electrical panelboards, switchboards, or other distribution equipment.

(D) This specialty may not install, repair, replace, or maintain: Any electrical wiring governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations) located outside the HVAC/refrigeration equipment.

(vi) HVAC/refrigeration - restricted (06B):

(A) This specialty may not perform any electrical work where the primary electrical power connection to the HVAC/

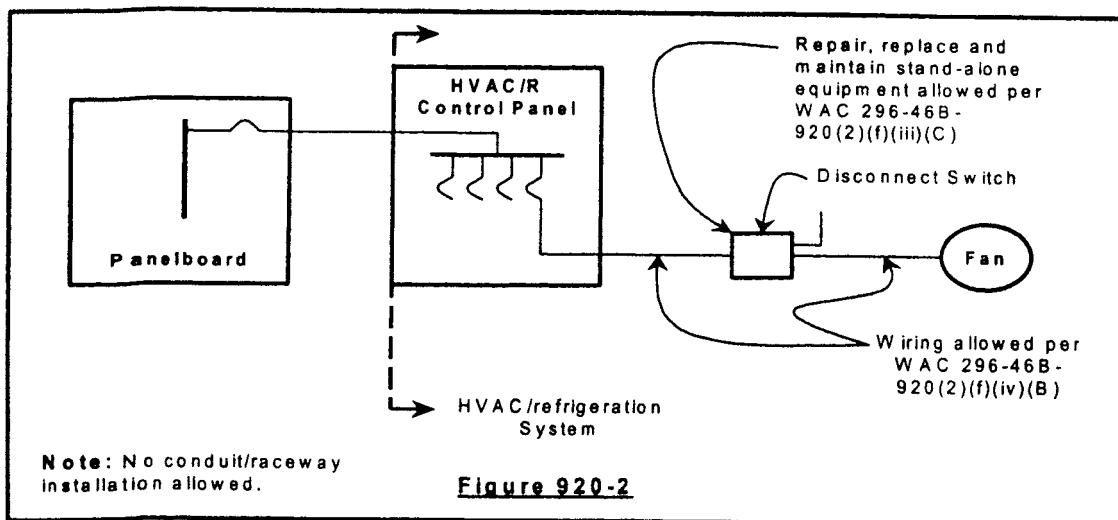
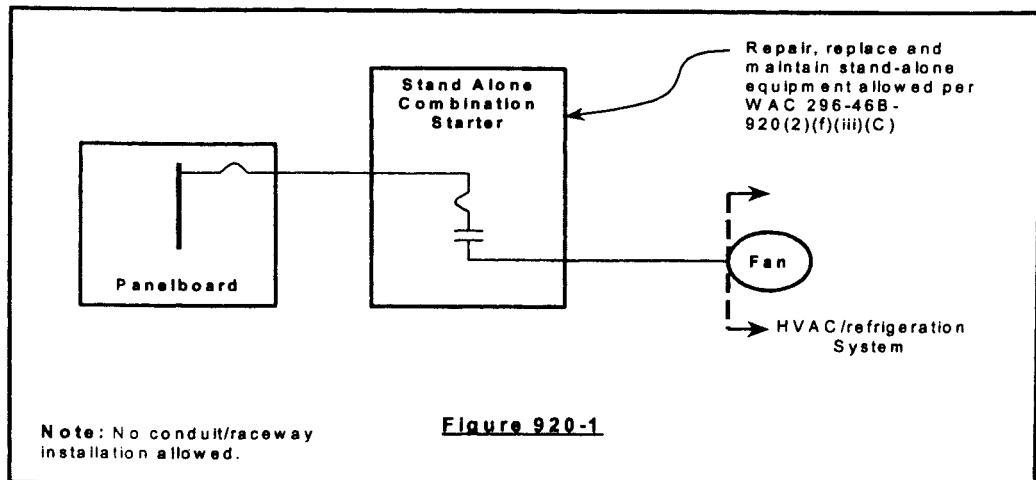
refrigeration system exceeds: 250 volts, single phase, or 120 amps.

- (B) This specialty may install, repair, replace, or maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies that have no more than three stories on/above grade.

- (C) This specialty may not install, repair, replace, or maintain:

- The allowed telecommunications/low-voltage HVAC/refrigeration wiring in a conduit/raceway system; or

- Any electrical work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).



(g) **Nonresidential maintenance (07):** Limited to maintenance, repair and replacement of like-in-kind existing electrical equipment and conductors. This specialty does not include maintenance activities in residential dwellings defined in (a) of this subsection for the purposes of accumulating training experience toward qualification for the residential (02) specialty electrician examination.

This specialty may perform the work defined in (h), (i), (j), (k), and (l) of this subsection.

(h) **Nonresidential lighting maintenance and lighting retrofit (07A):** Limited to working within the housing of existing nonresidential luminaires for work related to repair, service, maintenance of luminaires and installation of energy efficiency lighting retrofit upgrades. This specialty includes

replacement of lamps, ballasts, sockets and the installation of listed lighting retrofit reflectors and kits. All work is limited to the luminaire body, except remote located ballasts may be replaced or retrofitted with approved products. This specialty does not include installing new luminaires or branch circuits; moving or relocating existing luminaires; or altering existing branch circuits.

(i) **Residential maintenance (07B):** This specialty is limited to residential dwellings as defined in WAC 296-46B-920 (2)(a), multistory dwelling structures with no commercial facilities, and the interior of dwelling units in multistory structures with commercial facilities. This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC ((296-46B-900)) 296-46B-901.

This specialty is limited to equipment and circuits to a maximum of 250 volts, 60 amperes, and single phase maximum.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit or whip.

For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(j) **Restricted nonresidential maintenance (07C):** This specialty may maintain, repair, or replace (like-in-kind) existing electrical utilization equipment, and all permit exempted work as defined in WAC ((296-46B-900)) 296-46B-901 except for the replacement or repair of circuit breakers.

This specialty is limited to equipment and circuits to a maximum of 277 volts and 20 amperes for lighting branch circuits only and/or maximum 250 volts and 60 amperes for other circuits.

The replacement of luminaires is limited to in-place replacement required by failure of the luminaire to operate. Luminaires installed in suspended lay-in tile ceilings may be relocated providing: The original field installed luminaire supply whip is not extended or relocated to a new supply point; or if a manufactured wiring assembly supplies luminaire power, a luminaire may be relocated no more than eight feet providing the manufactured wiring assembly circuiting is not changed.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit. For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip.

This specialty may perform the work defined in (h) and (i) of this subsection.

This specialty cannot perform any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(k) **Appliance repair (07D):** Servicing, maintaining, repairing, or replacing household appliances, small commercial/industrial appliances, and other small electrical utilization equipment.

(i) For the purposes of this subsection:

(A) The appliance or electrical utilization equipment must be self-contained and built to standardized sizes or types. The appliance/equipment must be connected as a single unit to a single source of electrical power limited to a maximum of 250 volts, 60 amperes, single phase.

(B) Appliances and electrical utilization equipment include, but are not limited to: Ovens, office equipment, vehicle repair equipment, commercial kitchen equipment, self-contained hot tubs and spas, grinders, and scales.

(C) Appliances and utilization equipment do not include systems and equipment such as: Alarm/energy management/similar systems, luminaires, furnaces/heaters/air conditioners/heat pumps, sewage disposal equipment, door/gate/similar equipment, or individual components installed so as to create a system (e.g., pumps, switches, controllers, etc.).

(ii) This specialty includes:

(A) The in-place like-in-kind replacement of the appliance or equipment if the same unmodified electrical circuit is used to supply the equipment being replaced. This specialty also includes the like-in-kind replacement of electrical components within the appliance or equipment;

(B) The disconnection and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit; and

(C) The installation of an outlet box and outlet at an existing appliance or equipment location when converting the appliance from a permanent electrical connection to a plug and cord connection. Other than the installation of the outlet box and outlet, there can be no modification to the existing branch circuit supplying the appliance or equipment.

(iii) This specialty does not include:

(A) The installation, repair, or modification of branch circuits conductors, services, feeders, panelboards, disconnect switches, or raceway/conductor systems interconnecting multiple appliances, equipment, or other electrical components.

(B) Any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(C) Any plumbing work regulated under chapter 18.106 RCW.

(l) **Equipment repair (07E):** Servicing, maintaining, repairing, or replacing utilization equipment.

See RCW 19.28.095 for the equipment repair scope of work and definitions. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(m) **Telecommunications (09):** Limited to the installation, maintenance, and testing of telecommunications systems, equipment, and associated hardware, pathway systems, and cable management systems.

(i) This specialty includes:

(A) Installation of open wiring systems of telecommunications cables.

(B) Surface nonmetallic raceways designated and used exclusively for telecommunications.

(C) Optical fiber innerduct raceway.

(D) Underground raceways designated and used exclusively for telecommunications and installed for additions or extensions to existing telecommunications systems not to exceed fifty feet inside the building.

(E) Incidental short sections of circular or surface metal raceway, not to exceed ten feet, for access or protection of telecommunications cabling and installation of cable trays and ladder racks in telecommunications service entrance rooms, spaces, or closets.

(F) Audio or paging systems where the amplification is integrated into the telephone system equipment.

(G) Audio or paging systems where the amplification is provided by equipment listed as an accessory to the telephone system equipment and requires the telephone system for the audio or paging system to function.

(H) Closed circuit video monitoring systems if there is no integration of line or low-voltage controls for cameras and equipment. Remote controlled cameras and equipment are considered (intrusion) security systems and must be installed by appropriately licensed electrical contractors and certified electricians.

(I) Customer satellite and conventional antenna systems receiving a telecommunications service provider's signal. All receiving equipment is on the customer side of the telecommunications network demarcation point.

(ii) This specialty does not include horizontal cabling used for fire protection signaling systems, intrusion alarms, access control systems, patient monitoring systems, energy management control systems, industrial and automation control systems, HVAC/refrigeration control systems, lighting control systems, and stand-alone amplified sound or public address systems. Telecommunications systems may interface with other building signal systems including security, alarms, and energy management at cross-connection junctions within telecommunications closets or at extended points of demarcation. Telecommunications systems do not include the installation or termination of premises line voltage service, feeder, or branch circuit conductors or equipment. Horizontal cabling for a telecommunications outlet, necessary to interface with any of these systems outside of a telecommunications closet, is the work of the telecommunications contractor.

(n) **Door, gate, and similar systems (10):** This specialty may install, service, maintain, repair, or replace door/gate/similar systems electrical operator wiring and equipment.

(i) For the purposes of this subsection, door/gate/similar systems electrical operator systems include electric gates, doors, windows, awnings, movable partitions, curtains and similar systems. These systems include, but are not limited to: Electric gate/door/similar systems operators, control push buttons, key switches, key pads, pull cords, air and electric treadle, air and electric sensing edges, coil cords, take-up reels, clocks, photo electric cells, loop detectors, motion detectors, remote radio and receivers, antenna, timers, lock-out switches, stand-alone release device with smoke detec-

tion, strobe light, annunciator, control panels, wiring and termination of conductors.

(ii) This specialty includes:

(A) Low-voltage, NEC Class 2, door/gate/similar systems electrical operator systems where the door/gate/similar systems electrical operator system is not connected to other systems.

(B) Branch circuits originating in a listed door/gate/similar systems electric operator control panel that supplies only door/gate/similar systems system components providing: The branch circuit does not exceed 600 volts, 20 amperes and the component is within sight of the listed door/gate/similar systems electric operator control panel.

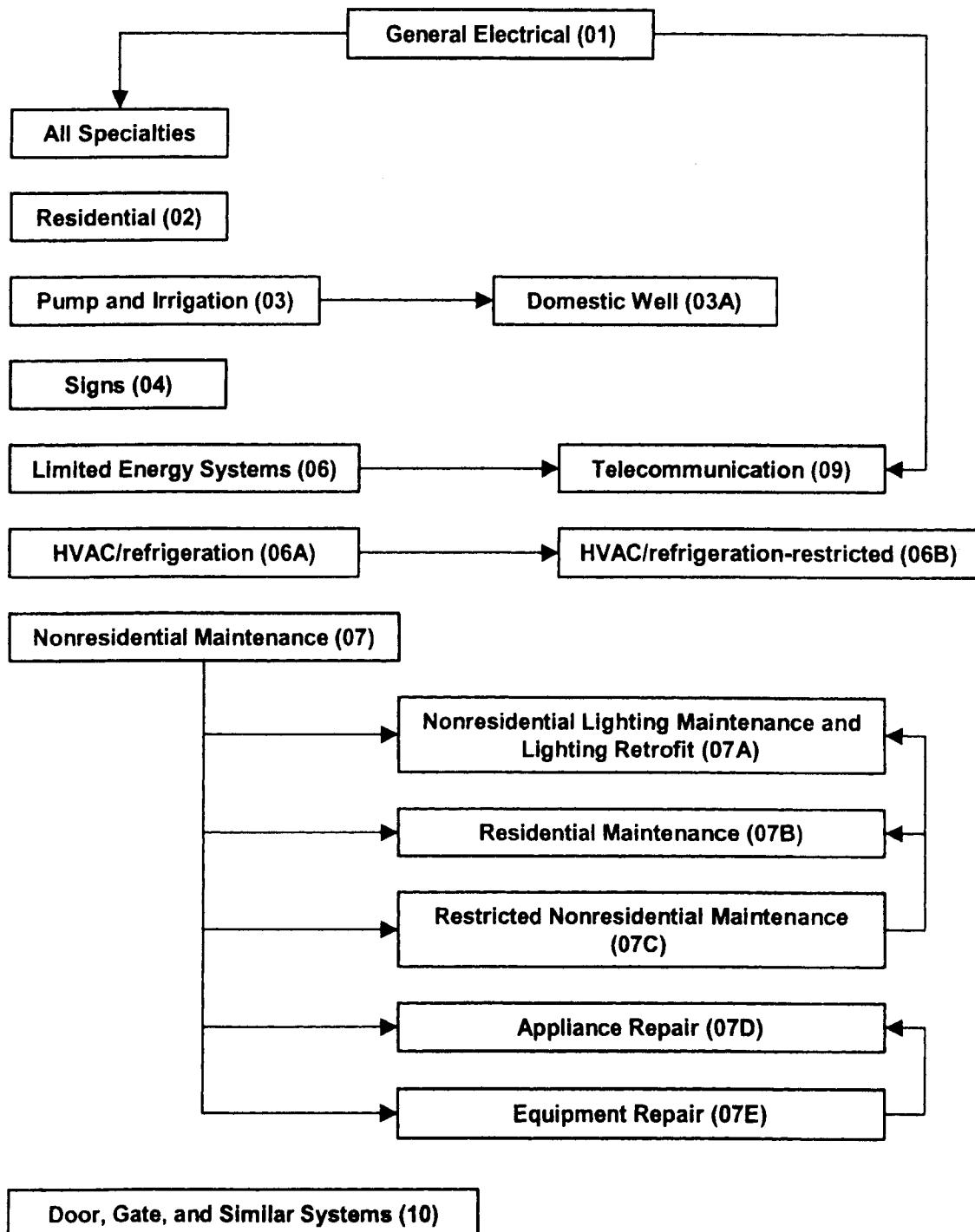
(C) Reconnection of line voltage power to a listed door/gate/similar systems electric operator control panel is permitted provided:

- There are no modifications to the characteristics of the branch circuit/feeder;
- The circuit/feeder does not exceed 600 volts, 20 amperes; and
- The conductor or conduit extending from the branch circuit/feeder disconnecting means or junction box does not exceed six feet in length.

(iii) This specialty does not include any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty may not install, repair, or replace branch circuit (line voltage) conductors, services, feeders, panelboards, or disconnect switches supplying the door/gate/similar systems electric operator control panel.

(3) A specialty electrical contractor, other than the (06) limited energy specialty electrical contractor, may only perform telecommunications work within the equipment or occupancy limitations of their specialty electrical contractor's license. Any other telecommunications work requires a telecommunications contractor's license.

Table 920-1 Allowed Scope of Work Crossover



AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-925 Electrical/telecommunications contractor's license. General.

(1) The department will issue an electrical/telecommunications contractor's license that will expire twenty-four months following the date of issue to a person, firm, partnership, corporation or other entity that complies with require-

ments for such license in chapter 19.28 RCW. An electrical/telecommunications contractor's license will not be issued to or renewed for a person, firm, or partnership unless the Social Security number, date of birth, and legal address of the individual legal owner(s) are submitted with the application. The department may issue an electrical/telecommunications contractor's license for a period greater or less than twenty-four months for the purpose of equalizing the number of electrical

contractor's licenses that expire each month. The department may prorate the electrical/telecommunications contractor's license fee according to the license period.

(2) Combination specialty contractor's license. The department may issue a combination specialty contractor's license to a firm that qualifies for more than one specialty electrical contractor's license. The assigned administrator must be certified in all specialties applicable to the combination specialty contractor's license. The license will plainly indicate the specialty licenses' codes included in the combination license. An administrator assigned to a telecommunications contractor must be certified as a telecommunications administrator. A combination license will not be issued for telecommunications (09).

(3) See RCW 19.28.041(1) for a contractor doing domestic pumping work as defined in RCW 18.106.010 (10)(c).

(4) The department may deny application or renewal of an electrical/telecommunications contractor's license if a firm, an owner, partner, member, or corporate officer owes money as a result of an outstanding final judgment(s) to the department.

Electrical/telecommunications contractor bond, cash or securities deposit.

(5) Bond, cash, or securities deposit.

(a) The electrical/telecommunications contractor may furnish the department with a cash or security deposit to meet the bond requirements in lieu of posting a bond. A cash or security deposit assigned to the department for bond requirements will be held in place for one year after the contractor's license is expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as an electrical/telecommunications contractor. Upon written request, the cash or security deposit will then be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

(b) See RCW 19.28.041(7) for a contractor doing domestic pumping work as defined in RCW 18.106.010 (10)(c).

Telecommunications contractor insurance.

(6) To obtain a telecommunications contractor's license, the applicant must provide the department with an original certificate of insurance naming the department of labor and industries, electrical section as the certificate holder. Insurance coverage must be no less than twenty thousand dollars for injury or damages to property, fifty thousand dollars for injury or damage including death to any one person, and one hundred thousand dollars for injury or damage including death to more than one person. The insurance will be considered a continuing obligation unless canceled by the insurance company. The insurance company must notify the department in writing ten days prior to the effective date of said cancellation or failure to renew.

(7) The telecommunications contractor may furnish the department with an assigned account to meet the insurance requirements in lieu of a certificate of insurance. An account assigned to the department for insurance requirements will be held in place for three years after the contractor's license is

expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as a telecommunications contractor. Upon written request, the account then will be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

Electrical/telecommunications contractor exemptions.

(8) The following types of systems and circuits are considered exempt from the requirements for licensing and permitting described in chapter 19.28 RCW. The electrical failure of these systems does not inherently or functionally compromise safety to life or property.

Low-voltage thermocouple derived circuits and low-voltage circuits for:

- (a) Built-in residential vacuum systems;
- (b) Underground landscape sprinkler systems;
- (c) Underground landscape lighting; and
- (d) Residential garage doors.

For these types of systems and circuits to be considered exempt, the following conditions must be met:

(e) The power supplying the installation must be derived from a listed Class 2 power supply;

(f) The installation and termination of line voltage equipment and conductors supplying these systems is performed by appropriately licensed and certified electrical contractors and electricians;

(g) The conductors of these systems do not pass through fire-rated walls, fire-rated ceilings or fire-rated floors in other than residential units; and

(h) Conductors or luminaires are not installed in installations covered by the scope of Article 680 NEC (swimming pools, fountains, and similar installations).

(9) Firms who clean and/or replace lamps in luminaires are not included in the requirements for licensing in chapter 19.28 RCW. This exemption does not apply to electric signs as defined in the NEC.

(10) Firms who install listed plug and cord connected utilization equipment are not included in the requirements for licensing in chapter 19.28 RCW. The plug and cord must be a single listed unit consisting of a molded plug and cord and not exceeding 250 volt 60 ampere single phase. The plug and cord can be field installed per the manufacturer's instructions and the product listing requirements. The utilization equipment must be a single manufactured unit that does not require any electrical field assembly except for the installation of the plug and cord.

(11) Firms regulated by the Federal Communications Commission or the utilities and transportation commission, supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(12) Unregulated firms, supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(13) Leaseholders. For electrical installations, maintenance, or alterations to existing buildings only, any person, firm, partnership, corporation, or other entity holding a valid, signed lease from the property owner authorizing the leaseholder to perform electrical work, on the property the leaseholder occupies, will be allowed to purchase an electrical permit(s) and do electrical work on or within the property described in the lease. The lessee and/or his or her regularly employed employees must perform the electrical installation, maintenance and alteration.

The lessee who performs the electrical maintenance or installation work must be the sole occupant of the property or space. Property owners or leaseholders cannot perform electrical work on new buildings for rent, sale, or lease, without the proper electrical licensing and certification. Refer to RCW 19.28.261 for exemptions from licensing and certification.

(14) Assisting a householder. A friend, neighbor, relative, or other person (including a certified electrician) may assist a householder, at his/her residence in the performance of electrical work on the condition that the householder is present when the work is performed and the person assisting the householder does not accept money or other forms of compensation for the volunteer work. For the purposes of this subsection, a residence is a single-family residence.

(15) Volunteering to do electrical work. There are no exceptions from the electrical contractor's license or electrician certification requirements to allow persons to perform volunteer electrical work for anyone other than a householder or a nonprofit organization as allowed by RCW 19.28.091(7). For the purpose of this section, volunteer means that there is no remuneration or receiving of goods or services in return for electrical installations performed.

(16) Farms or place of business. See RCW 19.28.261 for licensing/certification exemptions allowed for the owner(s) of a farm or other place of business and for the employees of the owner.

Exemptions - electrical utility and electrical utility's contractor.

(17) Electrical utility ((system)) exemptions.

(a) Utility system exemption - RCW 19.28.010(1) and 19.28.091(1).

(i) Neither a serving electrical utility nor a contractor or subcontractor employed by the serving electrical utility is required to have an electrical contractor's license for work on the "utility system" or on service connections or on meters ((and)) or other apparatus ((or appliances)) used to measure the consumption of electricity.

((a))) (ii) Exemption from inspection. The work of a serving electrical utility and its contractor(s) on the work exempted by NEC 90.2 (b)(5), 1981 edition, is not subject to inspection.

(b) Street/area lighting exemption - RCW 19.28.091(2)(a)(A). ((A))

(i) On:

(A) Publicly owned streets, parks, athletic/play fields, beaches, and similar areas where the public has general, clear, and unrestricted access; or

(B) Outside area lighting installed on a utility owned pole(s) that is used to support the utility's electric distribution wiring or equipment that supplies a private property owner's property, the serving electrical utility is considered to be an owner and is not required to have an electrical contractor's license or electrical permit to install or work on ((electrical)) wiring or equipment, owned by the utility and used in the lighting of ((streets, alleys, ways, or public areas or squares)) those streets/areas.

((Utilities are allowed to install outside area lighting on privately owned property where the lighting fixture(s) is installed on a utility owned pole(s) used to support utility owned electric distribution wiring or equipment designed to supply electrical power to a customer's property.

Utilities are allowed to install area lighting outside and not attached to a building or other customer owned structure when the areas are outside publicly owned buildings such as: Publicly owned/operated parking lots, parks, schools, play fields, beaches, and similar areas; or the areas are privately owned where the public has general, clear and unrestricted access such as: Church parking lots, and commercial property public parking areas and similar areas.

Utilities are not allowed to install area lighting when the area is privately owned and the public does not have general, clear, and unrestricted access such as industrial property, residential property and controlled commercial property where the public's access is otherwise restricted.

Utilities are not allowed to install area lighting where the lighting is supplied from a source of power derived from a customer owned electrical system.

((b))) (ii) On other privately or publicly owned property (e.g., private streets, parking lots, businesses, schools, etc.), the serving utility is not required to have an electrical contractor's license or electrical permit to install or work on outside street/area lighting where the light(s) is supplied directly from the utility system and installed according to the NES or NEC.

This work is considered to be utility type work.

An electric utility is not allowed to install or work on street/area lighting:

(A) When the area is privately or publicly owned and the public does not have general, clear, and otherwise unrestricted access such as: Industrial property, residential property, or other property where the public's access is restricted in any manner.

(B) Where the lighting is supplied from a source of power derived from a customer-owned electrical system.

(C) Where the lighting or wiring is attached to a building or other customer-owned structure.

(D) If the utility does not directly perform the installation or work, it may only contract the work to an appropriately licensed electrical contractor(s). See RCW 19.28.091(3).

(c) Customer-owned equipment exemption - RCW 19.28.091 (2)(b). A serving electrical utility is not required to have an electrical contractor's license to work on electrical equipment owned by a commercial, industrial, or public institution customer if:

(i) The utility has not solicited such work; and

(ii) Such equipment:

(A) Is located outside a building or structure; and

(B) The work performed is ((on the primary)) ahead of the secondary side of the customer's transformer(s) which supplies power at the customer's utilization voltage.

((e) Exempted equipment and installations. No person, firm, partnership, corporation, or other entity is required to have an electrical contractor's license for work on electrical equipment and installations thereof that are exempted by RCW 19.28.091.)

(d) Exemption from inspection.

(i) The work of a serving electrical utility and its contractors on the utility system is not subject to inspection. The utility is responsible for inspection and approval for the installation.

(ii) Work exempted by NEC 90.2 (B)(5), 1981 edition, is not subject to inspection.) If the utility does not directly perform the installation or work, it may only contract the work to an appropriately licensed electrical contractor(s). See RCW 19.28.091(3).

This work is considered to be utility type work.

The owner will provide the electrical work permit and be responsible for requesting inspections and for ensuring the work is installed per chapter 19.28 RCW and this chapter.

Exemptions - electrical utility telecommunications transition equipment installations, maintenance and repair.

(18) No license, inspection or other permit will be required by the department of any electric utility or, of any person, firm, partnership or corporation or other entity employed or retained by an electric utility or its contractor, because of work in connection with the installation, maintenance, or repair of telecommunications transition equipment located ahead of the utility's telecommunications network demarcation point on the outside of a building or other structure when the work is performed by a qualified person consistent with the requirements of the National Electric Code (NEC) except as provided in (a) and (b) of this subsection:

(a) The following exceptions to the NEC shall be permitted:

(i) An additional service disconnect supplying power to the transition equipment can be connected on the supply side of the main service disconnect supplying general power to the building;

(ii) Service entrance disconnects may be separated when clearly labeled;

(iii) The service disconnect used for supplying power to the transition equipment must be connected to the grounding electrode system using:

(A) # 8 AWG copper or larger grounding electrode conductor if protected from physical damage; or

(B) # 6 AWG copper or larger grounding electrode conductor if not protected from physical damage;

(iv) Use of equipment or materials that have been listed/field evaluated by a recognized independent testing laboratory or the department;

(v) Low-voltage circuits do not require a separate disconnecting means and may be grounded to the transition equipment grounding system;

(vi) Any other variance to the NEC must be approved by the department.

(b) A variance recommended by a joint utility standards group composed of representatives of both public and private utilities or certified by a professional engineer will be approved by the department unless the recommendation is inconsistent with meeting equivalent objectives for public safety.

(c) For the purposes of this section, a qualified worker is employed by a utility or its contractor and is familiar with the construction or operation of such lines and/or equipment that concerns his/her position and who is proficient with respect to the safety hazards connected therewith, or, one who has passed a journey status examination for the particular branch of the electrical trades with which he/she may be connected or is in a recognized training or apprenticeship course and is supervised by a journey level person.

(d) Although the utility is responsible for inspection and approval of the installation, including the selection of material and equipment, the department reserves the right to audit worker qualifications and inspect such installations semiannually for conformance with the requirements of (a), (b) and (c) of this subsection but shall not collect a permit fee for such inspection or audit.

(e) If a utility fails to meet the requirements of this section, the department may require the utility to develop and submit a remedial action plan and schedule to attain compliance with this section which may be enforced by the department.

(f) This exemption shall be in addition to any other exemption provided in chapter 19.28 RCW, this chapter or other applicable law.

Exemptions - independent electrical power production equipment exemption.

(19) An independent electrical power production entity is not required to have an electrical contractor's license to work on electrical equipment used to produce or transmit electrical power if:

(a) The entity is:

(i) The owner or operator of the generating facility is regulated by the Federal Energy Regulatory Commission (FERC);

(ii) A municipal utility, or other form of governmental electric utility, or by an electrical cooperative or mutual corporation; or

(iii) The owner or operator of the generating facility is an independent electrical power producer and the facility generates electrical power only for sale to one or more:

(A) Electrical utilities regulated by FERC, municipal utility, or other form of governmental utility, or to an electric cooperative or mutual corporation; and

(B) The electrical power generated by the facility is not used for self-generation or any other on- or off-site function other than sale to one or more utilities regulated by FERC or by one or more state public utilities commissions, or to a PUD, municipal utility, or other form of governmental electric utility, or to an electric cooperative or mutual corporation.

(b) The entity must supply the chief electrical inspector a valid master business license issued by the department of

licensing, state of Washington so that the entity's status as a revenue generating business can be confirmed.

(c) The entity has entered into an agreement to sell electricity to a utility or to a third party; and

(d) The electrical equipment is used to transmit electricity from the terminals of an electrical generating unit located on premises to the point of interconnection with a utility system.

(e) The electrical power production facility's generation capacity exceeds 115 KVA.

(f) Notwithstanding that a generating facility may be granted an exemption pursuant to this section, the facility will be subject to all the requirements of chapter 19.28 RCW if the facility at any time in the future ceases to comply with the requirements for exemption. All site facilities not exclusively and directly required to generate and/or distribute the electrical power generated on the site are subject to all the licensing and inspection requirements of chapter 19.28 RCW. All facility services, feeders, and circuits not exclusively and directly required to generate and/or distribute the electrical power (e.g., lights, outlets, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection. Facility circuits supplied to equipment required for the function of generation equipment (e.g., block heaters, power supplies, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection up to and including the equipment termination point.

Exemptions - telegraph and telephone utility and telegraph and telephone utility's contractor.

(20) Telegraph and telephone utility exempted equipment and installations. No person, firm, partnership, corporation, or other entity is required to have an electrical contractor's license for work on electrical equipment and installations thereof that are exempted by RCW 19.28.151. For the purposes of this exemption, "building or buildings used exclusively for that purpose" may mean any separate building or space of a building where the space is separated from the remainder of the building by a two-hour fire wall. The telecommunications or telegraph equipment within such a space must supply telephone or telegraph service to other customer's buildings (i.e., telecommunications or telegraph equipment cannot solely supply the building containing the telephone/telegraph space).

Exemptions - manufacturers of electrical/telecommunications products.

(21) Manufacturers of electrical/telecommunications systems products will be allowed to utilize a manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment, modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing:

(a) Provided the product:

(i) Has not been previously energized;

(ii) Has been recalled by the Consumer Product Safety Commission;

(iii) Is within the manufacturer's written warranty period; or

(iv) The manufacturer is working under the written request and supervision of an appropriately licensed electrical contractor.

(b) Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring.

(c) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory.

(d) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

Premanufactured electric power generation equipment assemblies and control gear.

(22) Premanufactured electric power generation equipment assemblies and control gear.

(a) Manufacturers of premanufactured electric power generation equipment assemblies and control gear will be allowed to utilize a manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment, modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing, provided:

(i) For transfer equipment, the product has not been previously energized or is within the manufacturer's written warranty period;

(ii) Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring;

(iii) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory; or

(iv) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

(b) Premanufactured electric power generation equipment assemblies are made up of reciprocating internal combustion engines and the associated control gear equipment. Control gear equipment includes control logic, metering, and annunciation for the operation and the quality of power being generated by the reciprocating internal combustion engine and does not have the function of distribution of power.

(c) Modifications of a transfer switch must not include changes to the original intended configuration or changes or contact with externally field-connected components.

(d) For the purposes of this subsection, the following work on premanufactured electric power generation equipment assemblies is not exempt from the requirements of chapter 19.28 RCW:

(i) Installation or connection of conduit or wiring between the power generation unit, transfer switch, control gear;

(ii) Installation of the transfer switch;

(iii) Connections between the power generation unit, transfer switch, control gear, and utility's transmission or distribution systems;

- (iv) Connections between the power generation unit, transfer switch, control gear, and any building or structure; or
- (v) Test connections with any part of:
 - (A) The utility's transmission or distribution system; or
 - (B) The building or structure.

(23) The installation, maintenance, or repair of a medical device deemed in compliance with chapter 19.28 RCW is exempt from licensing requirements under RCW 19.28.091, certification requirements under RCW 19.28.161, and inspection and permitting requirements under RCW 19.28.-101. This exemption does not include work providing electrical feeds into the power distribution unit or installation of conduits and raceways. This exemption covers only those factory engineers or third-party service companies with equivalent training who are qualified to perform such service.

(24) Coincidental electrical/plumbing work. See RCW 19.28.091(8) for the plumber exemption.

(25) Nothing in this section will alter or amend any other exemptions from or requirement for licensure or inspection, chapter 19.28 RCW or this chapter.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-935 Administrator certificate. General.

(1) The department will deny application or renewal of a certificate if an individual owes money as a result of an outstanding final judgment(s) to the department.

(2) For special accommodation see WAC 296-46B-960.

(3) An applicant will not be issued a specialty administrator certificate that is a subspecialty of a certificate the applicant currently holds (i.e., the applicant is not eligible to take the domestic well administrator examination if the applicant currently possesses a pump and irrigation administrator certificate).

Qualifying for examination.

(4) There are no qualification requirements for taking an administrator certificate examination. Applicants should contact the testing agency directly.

Original - administrator certificates.

(5) The scope of work for electrical administrators is described in WAC 296-46B-920. The department will issue an original administrator certificate to a general administrator, or specialty administrator who:

(a) Successfully completes the appropriate administrator examination; and

(b) Submits the appropriate examination passing report from the testing agency with the applicant's: Date of birth, mailing address, and Social Security number; and

(c) Pays all appropriate fees as listed in WAC ((~~296-46B-910~~) 296-46B-909).

For an examination report to be considered, all the above must be submitted within ninety days after the completion of the examination. After ninety days, the applicant will be required to successfully retake the complete examination. An individual's original administrator certificate will expire on

their birth date at least one year, and not more than three years, from the date of original issue.

Combination - specialty administrator certificate.

(6) The department may issue a combination specialty administrator certificate to an individual who qualifies for more than one specialty administrators' certificate. The combination specialty administrators' certificate will plainly indicate the specialty administrator's certificate(s) the holder has qualified for. Telecommunications cannot be issued a combination because the renewal requirements are different from those required for electrical administrators. Temporary administrator certificates will not be issued as a part of a combination certificate.

Renewal - administrator certificate.

(7) An individual must apply for renewal of their administrator certificate on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years, with the exception of telecommunications administrators, who will be renewed for two years.

(8) An individual may renew their administrator certificate within ninety days after the expiration date without reexamination if the individual pays the late renewal fee listed in WAC ((~~296-46B-910~~) 296-46B-909).

(9) All renewals received more than ninety days after the expiration date of the certificate will be denied. The administrator will be required to pass the appropriate administrator examination before being recertified.

(10) All applicants for certificate renewal must:

(a) Submit a complete renewal application;

(b) Pay all appropriate fees as listed in WAC ((~~296-46B-910~~) 296-46B-909; and

(c) Provide accurate evidence on the renewal form that the individual has completed the continuing education requirements described in WAC 296-46B-970. If an individual files inaccurate or false evidence of continuing education information when renewing a certificate, the individual's certificate may be suspended or revoked.

Telecommunications administrators are not required to provide continuing education information.

Continuing education for pump and irrigation (**03**) and domestic pump (**03A**) administrators may be comprised of fifty percent electrical and fifty percent plumbing instruction.

(11) An individual who has not completed the required hours of continuing education can renew an administrator's certificate if the individual applies for renewal on or before the certificate expires and pays the appropriate renewal fee. However, the certificate will be placed in an inactive status.

When the certificate is placed in inactive status, an assigned administrator will be automatically unassigned from the electrical contractor. The electrical contractor will be notified of the unassignment and has ninety days to replace the administrator. An assignment fee will then be required per WAC ((~~296-46B-910~~) 296-46B-909).

The inactive certificate will be returned to current status upon validation, by the department, of the required continuing education requirements. If the certificate renewal date occurs during the inactive period, the certificate must be

renewed on or before the renewal date to allow the return to current status.

(12) An individual may renew a suspended administrator's certificate by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(13) An individual may not renew a revoked or temporary administrator's certificate.

Temporary specialty administrator certificate.

(14) See WAC 296-46B-930 for additional information.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-940 Electrician/training/temporary certificate of competency or permit required.

Electrician - general.

(1) The department will deny application or renewal of a certificate or permit if an individual owes money as a result of an outstanding final judgment(s) to the department.

Electrician - scope of work.

(2) The scope of work for electricians and trainees is described in WAC 296-46B-920.

Electrician - certificate of competency required.

(3) To work in the electrical construction trade, an individual must possess a current valid:

(a) Master journeyman electrician certificate of competency issued by the department;

(b) Journeyman electrician certificate of competency issued by the department;

(c) Master specialty electrician certificate of competency issued by the department;

(d) Specialty electrician certificate of competency issued by the department;

(e) Temporary electrician permit. Unless continually supervised by an appropriately certified electrician, no temporary electrician can install, repair, replace, or maintain any electrical wiring or equipment where the system voltage is more than 600 volts, whether the system is energized or deenergized; or

(f) Electrical training certificate, learning the trade in the proper ratio, per RCW 19.28.161, under the supervision of a certified master journeyman electrician, journeyman electrician, master specialty electrician working in their specialty, or specialty electrician working in their specialty.

(4) The department issues master electrician and electrician certificates of competency in the following areas of electrical work:

- (a) General journeyman (01);
- (b) Specialties:
 - (i) Residential (02);
 - (ii) Pump and irrigation (03);
 - (iii) Domestic pump (03A);
 - (iv) Signs (04);
 - (v) Limited energy system (06);
 - (vi) HVAC/refrigeration (06A);

- (vii) HVAC/refrigeration - restricted (06B);
- (viii) Nonresidential maintenance (07);
- (ix) Nonresidential lighting maintenance and lighting retrofit (07A);
- (x) Residential maintenance (07B);
- (xi) Restricted nonresidential maintenance (07C);
- (xii) Appliance repair (07D);
- (xiii) Equipment repair (07E); and
- (xiv) Door, gate, and similar systems (10).

Exemptions - linemen.

(5) ((Definition: See general definitions WAC 296-46B-100 for the definition of a lineman.))

(6) Electrical linemen employed by a:

(a) Serving electrical utility or the serving utility's contractor, or a subcontractor to their subcontractor, while performing work described in WAC 296-46B-925 do not need certificates of competency.

(b) Licensed general electrical contractors do not need certificates of competency if the electrical equipment:

(i) Is on commercial or industrial property;

(ii) Is located outside a building or structure; and

(iii) The work performed is on the primary side of the customer's transformer(s) supplying power at the customer's building or structure utilization voltage.)) When performing the work described and allowed in WAC 296-46B-925 (17)(a) or (b)(i), when employed by the serving utility or its contractor or subcontractor(s), a lineman is exempt from the requirements of chapter 19.28 RCW.

(6) When performing the work described and allowed in WAC 296-46B-925 (17)(b)(ii) or (c), when employed by the serving utility or its licensed electrical contractor or subcontractor(s), a lineman must meet the requirements of RCW 19.28.261 (5)(b) or be an appropriately certified electrician. See the definition of a lineman in WAC 296-46B-100.

Exemptions - plumbers.

(7) Coincidental electrical/plumbing work. See RCW 19.28.091(8) for the plumber exemption.

Original - master electrician, journeyman, and specialty electrician certificates of competency.

(8) The department will issue an original certificate of competency to master, journeyman, or specialty electricians who meet the eligibility requirements listed in:

(a) RCW 19.28.191 (1)(a) or (b); and

(i) Submit an application for an original master electrician certificate including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC ((296-46B-910)) 296-46B-909;

(b) RCW 19.28.191 (1)(d) through (e);

(i) Submit an original master electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC ((296-46B-910)) 296-46B-909; or

(c) RCW 19.28.191 (1)(f) through (g);

(i) Submit an original electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC ((~~296-46B-910~~) 296-46B-909).

(9) An individual's original electrician certificate of competency will expire on their birth date at least two years, and not more than three years, from the date of original issue.

Renewal - master electrician, journeyman, and specialty electrician certificates of competency.

(10) An individual must apply for renewal of their electrician certificate of competency on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years.

(11) An individual may renew their certificate of competency within ninety days after the expiration date without reexamination if the individual pays the late renewal fee listed in WAC ((~~296-46B-910~~) 296-46B-909).

(12) All applications for renewal received more than ninety days after the expiration date of the certificate of competency require that the electrician pass the appropriate competency examination before being recertified.

(13) All applicants for certificate of competency renewal must:

(a) Submit a complete renewal application;

(b) Pay all appropriate fees; and

(c) Provide accurate evidence on the renewal form that the individual has completed the continuing education requirements described in WAC 296-46B-970. Continuing education classes are only valid when all the requirements of WAC 296-46B-970 are completed. If an individual files inaccurate or false evidence of continuing education information when renewing a certificate of competency, the individual's certificate of competency may be suspended or revoked.

Continuing education for pump and irrigation (03) and domestic pump (03A) electricians may be comprised of fifty percent electrical and fifty percent plumbing instruction.

(14) An individual who has not completed the required hours of continuing education can renew a certificate of competency if the individual applies for renewal before the certificate of competency expires and pays the appropriate renewal fee. However, the certificate of competency will be placed in an inactive status. The inactive certificate of competency will be returned to current status upon validation, by the department, of the required continuing education. If the certificate renewal date occurs during the inactive period, the certificate must be renewed on or before the renewal date to allow the return to current status.

(15) An individual may renew a suspended certificate of competency by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(16) An individual may not renew a revoked or temporary certificate of competency.

Reciprocal agreements between Washington and other states.

(17) The department negotiates reciprocal agreements with states that have equivalent requirements for certification of master electricians, journeymen, or specialty electricians. These agreements allow electricians from those reciprocal states to become certified in the state of Washington without examination and allow Washington certified electricians to become certified in the other states without taking competency examinations. An individual may only apply for reciprocity from another state(s) one time in Washington.

(18) An individual coming into the state of Washington from a reciprocal state will be issued a reciprocal electrician certificate of competency if all the following conditions are met:

(a) The department has a valid reciprocal agreement with the other state in the master electrician category requested, journeyman, or specialty category requested;

(b) The individual makes a complete application for the reciprocity certificate on the form provided by the department. A complete application includes:

(i) Application for reciprocal certificate of competency;

(ii) Evidence that the individual meets the eligibility requirements listed in RCW 19.28.191, by presenting a valid journeyman or specialty electrician certificate or certified letter from the issuing state; and

(iii) All appropriate fees as listed in WAC ((~~296-46B-910~~) 296-46B-909).

(c) The individual obtained the reciprocal state's certificate of competency as a master electrician, journeyman, or specialty electrician by examination and the individual held the reciprocal state's certificate for a period of at least one year;

(19) An individual is not eligible for a reciprocal electrician certificate of competency if the individual:

(a) Has failed to renew a similar Washington master electrician or electrician certificate of competency as required in RCW 19.28.211;

(b) Has a similar Washington master electrician or electrician certificate of competency in suspended, revoked, or inactive status under this chapter; ((~~or~~))

(c) Has ever taken and failed a Washington exam; or

(d) Was a resident of the state of Washington at the time the examination was taken in the other state.

Military/shipyard experience.

(20) An individual who has worked in the electrical construction trade performing work described in WAC 296-46B-920 while serving in the armed forces of the United States may be eligible to take the examination for the certificate of competency as a journeyman or specialty electrician. Credit may be allowed for hours worked or training received.

If an individual has military experience in a specialized electrical field (e.g., rating) that is similar to a specialty electrician category listed in WAC 296-46B-920, credit may be allowed toward the appropriate specialty certificate. Nuclear, marine, shipyard, shipboard, radar, weapons, aeronautical experience, or similar experience may be acceptable for no more than fifty percent of the minimum required work experience for qualifying for electrician examination.

The department will evaluate and determine whether the submitted experience is related specifically to the electrical construction/maintenance trade regulated by chapter 19.28 RCW.

Experience in another country.

(21) If an individual has a journeyman electrician certificate from a country outside the United States that requires that at least four years of electrical construction training and certification is obtained by examination, the individual may be eligible for four thousand hours of the specialty credit allowed towards the qualification to take the Washington journeyman electrician examination.

No more than two years of the required training to become a Washington journeyman electrician may be for work described for specialty electricians or technicians in WAC 296-46B-920. In addition to the maximum of four thousand hours credit that may be allowed by this subsection, an additional four thousand hours of new commercial/industrial experience must be obtained using a training certificate in the state while under the supervision of a master journeyman electrician or journeyman electrician.

Documentation substantiating the individual's out-of-country experience must be submitted in English.

(22) Out-of-country experience credit is not allowed toward a specialty electrician certificate.

Training school credit.

(23) No more than fifty percent of the minimum work experience needed to qualify for specialty electrician certification is allowed for any training school program (e.g., a specialty requiring two thousand hours of minimum required work experience may receive no more than one thousand hours credit from an electrical construction training program).

(24) See RCW 19.28.191 (1)(h) for training school credit allowed for journeyman applicants.

(25) See WAC 296-46B-971 for additional information on training schools.

Temporary electrician permit.

(26) Temporary permits are not allowed for master electricians.

(27) Temporary electrician permit when coming from out-of-state. An individual coming from out-of-state must either obtain a reciprocal electrician certificate, valid training certificate, or make application and receive approval for a temporary electrician permit to perform electrical work in the state, or otherwise obtain an electrician certificate of competency.

(a) Initial temporary electrician permit when coming from out-of-state.

(i) If an individual can show evidence of work experience in another state similar to RCW 19.28.191, the department may issue the individual one initial temporary journeyman or specialty electrician permit. The individual must present appropriate evidence at the time of application showing work experience equivalent to that required by RCW 19.28.191.

The initial temporary electrician permit allows the individual to work as an electrician between the date of filing a completed application for the certification examination and the notification of the results of the examination. This initial permit will be issued for one twenty-day period and will become invalid on the expiration date listed on the temporary electrician permit or the date the individual is notified they have failed the examination, whichever is earlier.

(ii) To qualify for an initial temporary electrician permit, an individual must:

(A) Meet the eligibility requirements of RCW 19.28.-191; and

(B) Submit a complete application for an initial temporary electrician permit and original certification including:

- Date of birth, mailing address, Social Security number; and
- All appropriate fees as listed in WAC ((~~296-46B-910~~) 296-46B-909).

(iii) The individual must not have ever possessed a Washington master electrician, journeyman electrician, specialty electrician, or temporary electrician certificate of competency in the specialty requested.

(iv) If the initial temporary electrician permit becomes invalid, it will not be extended or renewed. To continue to work in the electrical trade, the individual must apply for and receive a:

(A) Second temporary electrician permit; or

(B) Training certificate and work in the proper ratio, per RCW 19.28.161, under the direct supervision of either a certified master journeyman electrician, journeyman electrician, master specialty electrician working in the appropriate specialty, or a specialty electrician working in the appropriate specialty.

(b) Second temporary electrician permit.

(i) If the individual fails the certification examination during the initial temporary electrician period and provides verification of enrollment in an approved journeyman refresher course or approved appropriate specialty electrician refresher course, as prescribed in RCW 19.28.231, application may be made for a second temporary electrician permit.

A complete second application must include proof of enrollment in the refresher course and all appropriate fees as listed in WAC ((~~296-46B-910~~) 296-46B-909).

(ii) The second temporary electrician permit will be issued for one ninety-day period and will become invalid: Upon withdrawal from the electrician refresher course, on the expiration date listed on the temporary electrician permit, or the date the individual is notified they have failed the examination, whichever is earlier;

(iii) After successfully completing the electrician refresher course, the individual must provide appropriate course completion documentation to the department and will be eligible to retake the appropriate competency exam.

(iv) If the second temporary electrician permit becomes invalid, it will not be extended or renewed. To continue to work in the electrical trade, the individual must apply for and receive a training certificate and work in the proper ratio, per RCW 19.28.161, under the direct supervision of either a certified master journeyman electrician, journeyman electrician, master specialty electrician working in the appropriate spe-

cialty, or a specialty electrician working in the appropriate specialty.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-945 Qualifying for master, journeyman, specialty electrician examinations. Qualifying for master, journeyman, specialty electrician examinations.

(1) All applicants must be at least sixteen years of age.

Qualifying for the master electrician examination.

(2) An individual may take the master electrician's certificate of competency examination if the individual meets the requirements described in RCW 19.28.191 (1)(d) or (e).

Qualifying for the master electrician examination from out-of-state.

(3) No credit may be applied from out-of-state toward qualifying for a master electrician certificate of competency examination.

Qualifying for the journeyman electrician competency examination.

(4) An individual may take the journeyman electrician's certificate of competency examination if the individual held a current electrical training certificate and has worked for an employer who employs at least one certified master electrician, journeyman, or specialty electrician on staff and the individual:

(a) Has been employed, in the electrical construction trade, under the direct supervision of a master electrician, journeyman electrician or specialty electrician working in the appropriate specialty in the proper ratio, per RCW 19.28.161, for four years (eight thousand hours). Of the eight thousand hours:

(i) At least two years (four thousand hours) must be in new industrial and/or new commercial electrical installation (excluding all work described for specialty electricians or technicians) under the direct supervision of a master journeyman electrician or journeyman electrician while working for a general electrical contractor; and

(ii) Not more than a total of two years (four thousand hours) may be for work described as an electrical specialty in WAC 296-46B-920(2).

(b) Has completed a four-year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council while working under the direct supervision of a master journeyman or journeyman electrician in the proper ratio, per RCW 19.28.161; or

(c) Has completed a two-year electrical construction training program as described in RCW 19.28.191 for journeyman electricians, and two years (four thousand hours) of work experience in new industrial and/or new commercial electrical installations (excluding work described for specialty electricians or electrical technicians) under the direct supervision of a journeyman electrician while working for a general electrical contractor in the proper ratio, per RCW 19.28.161. See WAC 296-46B-971 for additional training school information.

Electrical construction training hours gained in specialties requiring less than two years (i.e., four thousand hours) will not be credited towards qualification for journeyman electrician.

The trainee and their employer and/or apprenticeship training director must attest to the accuracy of all information contained on affidavits of experience used to verify eligibility for the examination.

Qualifying for the journeyman/specialty electrician competency examination when work was performed in a state requiring electrician certification.

(5) An individual may take the journeyman/specialty electrician's competency examination when the appropriate state having authority certifies to the department that:

(a) The work was legally performed under the other state's licensing and certification requirements;

(i) For journeyman applicants who meet the minimum hour requirements described in WAC 296-46B-945(4).

(ii) For specialty applicants who meet the minimum hour requirements described in WAC 296-46B-945(9).

(b) The other state's certificate of competency was obtained by examination.

Electrical construction training hours gained in specialties requiring less than two years (i.e., four thousand hours) may not be credited towards qualification for journeyman electrician.

Qualifying for the journeyman/specialty electrician competency examination when work was performed in a state that does not require electrician certification.

(6) If the other state requires electrical contractor licensing:

(a) An individual may take the journeyman/specialty electrician's competency examination when an appropriately licensed electrical contractor(s), registered apprenticeship training director, or nationally recognized contractor or labor organization files a notarized letter of experience with the department accompanied by payroll documentation which certifies and shows that:

(i) For journeyman applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(4).

(ii) For specialty applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(9).

(b) An individual may take the journeyman/specialty electrician's competency examination when an employer(s), acting under a property owner exemption, files a notarized letter of experience from the property owner with the department accompanied by payroll documentation which certifies and shows that:

(i) For journeyman applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(4).

(ii) For specialty applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(9).

(7) If the other state does not require electrical contractor licensing or registration: An individual may take the jour-

neyman/specialty electrician's competency examination when the individual's employer(s), registered apprenticeship training director, or nationally recognized contractor or labor organization files a notarized letter(s) of experience with the department accompanied by payroll documentation which certifies and shows that:

(a) For journeyman applicants: The individual meets the minimum work requirements described in WAC 296-46B-945(4).

(b) For specialty applicants: The individual meets the minimum work requirements described in WAC 296-46B-945(9).

(8) The letter of experience described in subsections (6) and (7) of this section should include a complete list of the individual's usual duties with percentages attributed to each.

Qualifying for a specialty electrician certificate of competency or examination.

(9) An individual may qualify for a specialty electrician's examination and certificate of competency if the individual held a current electrical training certificate, and has worked for an employer who employs at least one certified master journeyman electrician, journeyman electrician, appropriate master specialty electrician, or appropriate specialty electrician on staff and the individual:

(a) Has been employed, in the electrical construction trade, under the direct supervision of an appropriate electrician in the appropriate specialty as follows:

Table 945-1 Experience Hours

Specialty	Minimum Hours of Work Experience Required to be Eligible for Examination ⁽⁴⁾⁽⁵⁾	Minimum Hours of Work Experience Required for Certification
Residential certificate (02)	4,000 ⁽³⁾	4,000
Pump and irrigation certificate (03)	4,000 ⁽³⁾⁽⁽⁸⁾⁾	4,000 ⁽⁽⁸⁾⁾
Domestic pump certificate (03A)	720 ⁽¹⁾⁽²⁾⁽⁽⁸⁾⁾	2,000 ⁽⁶⁾⁽⁽⁸⁾⁾
Signs certificate (04)	4,000 ⁽³⁾	4,000
Limited energy system certificate (06)	4,000 ⁽³⁾	4,000
HVAC/refrigeration system certificate (06A)	4,000 ⁽³⁾	4,000 ⁽⁷⁾
HVAC/refrigeration - restricted (06B)	1,000 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Nonresidential maintenance certificate (07)	4,000 ⁽³⁾	4,000
Nonresidential lighting maintenance and lighting retrofit certificate (07A)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Residential maintenance certificate (07B)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Restricted nonresidential maintenance certificate (07C)	1,000 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾

Table 945-1 Experience Hours

Specialty	Minimum Hours of Work Experience Required to be Eligible for Examination ⁽⁴⁾⁽⁵⁾	Minimum Hours of Work Experience Required for Certification
Appliance repair certificate (07D)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Equipment repair certificate (07E)	1,000 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Door, gate, and similar systems certificate (10)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾

Notes:

⁽¹⁾Until the examination is successfully completed, the trainee must work under one hundred percent supervision. Once the appropriate examination is successfully completed, the modified supervision trainee may work under zero percent supervision.

⁽²⁾The trainee may have only one zero percent supervision certificate in a specialty (valid for no more than two years). If the trainee has not gained the required work experience by the time the zero percent supervision certificate has expired, the trainee must get a seventy-five percent supervision certificate and work under supervision until all required work experience hours are gained and credited towards the minimum work experience requirement.

⁽³⁾This specialty is not eligible for ((modified)) unsupervised trainee status as allowed in chapter 19.28 RCW.

⁽⁴⁾The trainee and their employer and/or apprenticeship training director must attest to the accuracy of all information contained on affidavits of experience used to verify eligibility for the examination.

⁽⁵⁾Neither previous work experience credit nor training school credit is allowed as a substitute for the initial hours of minimum work experience required to be eligible for examination unless the trainee's work experience hours under direct supervision are provided as required in RCW 19.28.191 (1) (g)(ii).

⁽⁶⁾Electrical construction training hours gained in specialties requiring less than two years for certification may not be credited towards qualification for journeyman electrician.

⁽⁷⁾The 2,000 minimum hours of work experience required for certification as a HVAC/refrigeration-restricted (06B) specialty electrician may be credited as 2,000 hours towards the 4,000 minimum hours of work experience required for certification as a HVAC/refrigeration (06A) specialty electrician. Hours of work experience credited from the HVAC/refrigeration-restricted (06B) specialty cannot be credited towards qualification for taking the general electrician (01) examination or minimum work experience requirements.

⁽⁸⁾Experience hours may be coincidentally credited towards qualifying for electrician and plumber certifications. See RCW 19.28.191 (1)(g)(v).

(b) Or has completed an appropriate two-year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council while working under the direct supervision of an electrician in the appropriate specialty in the proper ratio, per RCW 19.28.161.

Qualifying for a certificate of competency when the Washington electrical work experience is exempt from certification requirements in RCW 19.28.261.

(10) To receive credit for electrical work experience that is exempted in RCW 19.28.261, an individual must provide the department with verification from the employer or owner according to WAC 296-46B-965 (i.e., affidavit(s) of experi-

ence). For the purposes of this section, exempt work does not include work performed on property owned by the individual seeking credit.

(11) All exempt individuals learning the electrical trade must obtain an electrical training certificate from the department and renew it biannually in order to receive credit for hours worked in the trade according to WAC 296-46B-965.

(12) The department may require verification of supervision in the proper ratio from the certified supervising electrician(s).

(13) Telecommunications work experience:

(a) Credit may be verified only by employers exempted by RCW 19.28.261, general electrical (01) contractors, and limited energy system (06) electrical contractors for limited energy experience for telecommunications work done:

(i) Under the supervision of a certified journeyman or limited energy electrician; and

(ii) In compliance with RCW 19.28.191.

(b) Individuals who want to obtain credit for hours of experience toward electrician certification for work experience doing telecommunications installations must:

(i) Obtain an electrical training certificate;

(ii) Renew the training certificate biannually in order to receive credit for hours worked in the trade according to WAC 296-46B-965.

(c) Telecommunications contractors may not verify telecommunications work experience toward electrician certification.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-960 Administrator and electrician certificate of competency examinations. General.

(1) The minimum passing score on any examination or examination section is seventy percent. If examination is requested to be administered by the department, an application is required and the examination must be successfully completed within one year of application or the individual must submit a new application for exam including all appropriate fees.

(2) All examinations are open book.

(a) Candidates may use:

(i) Any original copyrighted material;

(ii) A silent, nonprinting, nonprogrammable calculator that is not designed for preprogrammed electrical calculations;

(iii) Copies of chapter 19.28 RCW and this chapter; or

(iv) A foreign language dictionary that does not contain definitions.

(b) Candidates may not use:

(i) Copies of copyrighted material;

(ii) Copies of internet publications, except for RCWs or WACs;

(iii) Personal notes; or

(iv) A personal computing device of any type other than the calculator in (a)(ii) of this subsection.

(3) Administrator, master electrician, and electrician examinations may consist of multiple sections. All sections must be successfully completed within a one-year examina-

tion period after beginning the examination. Within the one-year examination period, the candidate does not have to retake any sections successfully completed within the examination period. If all sections are not successfully completed within the one-year period, the candidate must begin a new examination period and retake all sections.

Special accommodations for examination.

(4) An applicant for an examination who, due to a specific physical, mental, or sensory impairment, requires special accommodation in examination procedures, may submit a written request to the chief electrical inspector for the specific accommodation needed.

(a) The applicant must also submit to the department a signed and notarized release, authorizing the specifically identified physician or other specialist to discuss the matter with the department representative. The applicant must also submit an individualized written opinion from a physician or other appropriate specialist:

(i) Verifying the existence of a specific physical, mental, or sensory impairment;

(ii) Stating whether special accommodation is needed for a specific examination;

(iii) Stating what special accommodation is necessary; and

(iv) Stating if extra time for an examination is necessary and if so, how much time is required. The maximum allowance for extra time is double the normal time allowed.

(b) The written request for special accommodation and individualized written opinion must be submitted to the department at least six weeks in advance of the examination date and must be accompanied by a completed application and fees as described in WAC ((296-46B-910)) 296-46B-909.

(c) Only readers and interpreters provided from the administrative office of the courts and/or approved by the department may be used for reading or interpreting the examination. The applicant will be required to bear all costs associated with providing any reading or interpretive services used for an examination.

(d) Applicants who pass the examination with the assistance of a reader or interpreter will be issued a certificate with the following printed restriction: "Requires reading supervision for product usage." A competent reader or interpreter must be present on any job site where a person with this restriction is performing electrical work as described in chapter 19.28 RCW.

Applicants who pass the examination with the assistance of a mechanical device (e.g., magnifier, etc.) will be issued a certificate with the following printed restriction: "Requires mechanical reading assistance for product usage." Appropriate mechanical reading assistance must be present on any job site where a person with this restriction is performing electrical work as described in chapter 19.28 RCW.

If a candidate successfully retakes the examination without the assistance of a reader or translator, a new certificate will be issued without the restriction.

(5) Applicants who wish to use a foreign language dictionary during an examination must obtain approval at the

examination site prior to the examination. Only dictionaries without definitions will be approved for use.

Failed examination appeal procedures.

(6) Any candidate who takes an examination and does not pass the examination may request a review of the examination.

(a) The department will not modify examination results unless the candidate presents clear and convincing evidence of error in the grading of the examination.

(b) The department will not consider any challenge to examination grading unless the total of the potentially revised score would result in a passing score.

(7) The procedure for requesting an informal review of examination results is as follows:

(a) The request must be made in writing to the chief electrical inspector and must be received within twenty days of the date of the examination and must request a rescore of the examination. The written request must include the appropriate fees for examination review described in WAC ((296-46B-910) 296-46B-909).

(b) The following procedures apply to a review of the results of the examination:

(i) The candidate will be allowed one hour to review their examination.

(ii) The candidate must identify the challenged questions of the examination and must state the specific reason(s) why the results should be modified with multiple published reference material supporting the candidate's position.

(iii) Within fifteen days of the candidate's review, the department will review the examination and candidate's justification and notify the candidate in writing of the department's decision.

Subjects included in administrator certificate, or master electrician, journeyman, or specialty electrician competency examinations.

(8) The following subjects are among those that may be included in the examination for an administrator certificate or electrician certificate of competency. The list is not exclusive. The examination may also contain subjects not on the list.

(a) For general administrators, master journeyman, and journeyman electricians:

AC - Generator; 3-phase; meters; characteristics of power in AC circuits (power factor); mathematics of AC circuits.

Administration - Chapter 19.28 RCW and this chapter.

Air conditioning - Basic.

Blueprints - Surveys and plot plans; floor plans; service and feeders; electrical symbols; elevation views; plan views.

Building wire.

Cable trays.

Calculations.

Capacitive reactance.

Capacitor - Types; in series and parallel.

Circuits - Series; parallel; combination; basic; branch; outside branch circuits; calculations.

Conductor - Voltage drop (line loss); grounded.

Conduit - Wiring methods.

DC - Generator; motors; construction of motors; meters.

Definitions - Electrical.

Electrical units.

Electron theory.

Fastening devices.

Fire alarms - Introduction to; initiating circuits.

Fuses.

Generation - Electrical principles of.

Grounding.

Incandescent lights.

Inductance - Introduction to; reactance.

Insulation - Of wire.

Mathematics - Square root; vectors; figuring percentages.

Motors/controls - Motors vs. generators/CEMF; single phase; capacitor; repulsion; shaded pole; basic principles of AC motors.

Ohm's Law.

Power.

Power factor - AC circuits; correction of; problems.

Rectifiers.

Resistance - Of wire.

Rigging.

Safety - Electrical shock.

Services.

3-wire system.

Tools.

Transformers - Principles of; types; single-phase; 3-phase connections.

Voltage polarity across a load.

Wiring methods - Conduit; general.

Wiring systems - Less than 600 volts; 480/277 volts; single-and 3-phase delta or wye; distribution systems over 600 volts.

Note: The general administrator, master journeyman, and journeyman electrician examinations may also include the subjects listed below for specialty electrician examinations.

(b) For specialty administrators, master specialty and specialty electricians, the following subjects are among those that may be included in the examination. Examination subjects are restricted to those subjects related to the scope of work of the specialty described in WAC 296-46B-920. The list is not exclusive. The examination may also contain subjects not on the list.

AC - Meters.

Administration - Chapter 19.28 RCW and this chapter.

Appliance circuits or controls.

Blueprints - Floor plans; service and feeders.

Cables - Wiring methods.

Calculations.

Circuits - Series; parallel; combination; basic; outside branch.

Conductor - Voltage drop (line loss); grounded; aluminum or copper.

Conduit - Wiring methods.

Electrical signs, circuits, controls, or services.

Electrical units.

First aid.

Fuses.

General lighting.

Grounding of conductors.
 Insulation of wire.
 Limited energy circuits or systems.
 Maintenance of electrical systems.
 Mathematics - Figuring percentage.
 Motor circuits, controls, feeders, or services.
 Ohm's Law.
 Overcurrent protection.
 Resistance of wire.
 Safety - Electrical shock.
 Services.
 Sizes of building wire.
 3-wire system.
 Tools.
 Transformer - Ratios; single-phase/3-phase connections.

Failing an administrator certificate exam or electrician certificate of competency examination.

(9) Anyone failing an administrator or electrician competency examination may retake the examination by making arrangements with the testing agency and paying the retesting fee.

(10) If the individual makes a score of less than sixty percent, the individual must wait two weeks before being eligible to retest.

(11) If the individual makes a score of sixty to sixty-nine percent, the individual must wait one day before being eligible to retest.

(12) If the individual fails an electrician examination or a part of an administrator or master electrician examination three times within a one-year period, the individual must wait three months to retake the failed portion of the examination.

(13) Anyone failing an electrician competency examination may continue to work in the electrical trade if they have a valid electrical training certificate and work under the direct supervision of a certified journeyman or specialty electrician in the proper ratio, per RCW 19.28.161.

Cheating on an examination.

(14) Anyone found cheating on an examination, attempting to bribe a proctor or other agent involved in administering an examination, or using inappropriate materials/equipment during an examination will be required to wait at least eleven months before being allowed to reexamine. All such reexaminations will be administered by the department in Tumwater, Washington and the candidate will be required to apply and schedule for the examination with the chief electrical inspector.

AMENDATORY SECTION (Amending WSR 06-24-041, filed 11/30/06, effective 12/31/06)

WAC 296-46B-965 Training certificate required. General.

(1) A training certificate is required to work in the electrical construction trade if an individual does not:

(a) Possess a current journeyman certificate of competency issued by the department;

(b) Possess a current specialty electrician certificate of competency issued by the department while working in that specialty's scope of work;
 (c) Possess a valid temporary electrician permit;
 (d) Possess a valid temporary specialty electrician permit while working in that specialty's scope of work; or
 (e) Is not working in exempt status as allowed by chapter 19.28 RCW.

(2) Trainees who have had their training certificates revoked or suspended (during the duration of the revocation or suspension) will not be issued a training certificate.

Original training certificates.

(3) The department will issue an original training certificate when the trainee applicant submits a complete training certificate application including:

(a) Date of birth, mailing address, Social Security number; and
 (b) All appropriate fees as listed in WAC ((296-46B-910) 296-46B-909).

All applicants for an electrical training certificate must be at least sixteen years of age. The original training certificate will be valid for two years.

(c) If an individual has previously held an electrical training certificate, then that individual is not eligible for a subsequent original training certificate.

Specialty specific - zero percent and seventy-five percent supervision modified training certificates.

(4) For specialties as allowed in Table 945-1 (i.e., specialties with seven hundred twenty minimum hours of work experience required to be eligible for examination):

(a) The department will approve the trainee to take the appropriate specialty competency examination necessary to qualify for a zero percent supervision modified training certificate. To qualify, the trainee applicant must submit a complete zero percent supervision modified training certificate application including:

(i) Date of birth, mailing address, Social Security number;
 (ii) Affidavit of experience fulfilling the minimum work experience hours required to qualify for the specialty examination described in Table 945-1; and
 (iii) All appropriate fees as listed in WAC ((296-46B-910) 296-46B-909).

Upon successful completion of the appropriate examination, the trainee will be issued a nonrenewable zero percent supervision modified training certificate for the appropriate specialty. The zero percent supervision modified training certificate will be restricted in duration to the time allowed in Table 945-1, note 2.

(b) Prior to the expiration of the zero percent supervision modified training certificate or temporary specialty electrician permit obtained as described in WAC 296-46B-940(28), the individual must submit a complete application for a seventy-five percent supervision modified training certificate for the appropriate specialty including:

(i) Seventy-five percent supervision training certificate application including: Date of birth, mailing address, Social Security number; and

(ii) All appropriate fees as listed in WAC ((~~296-46B-910~~) 296-46B-909).

(c) A trainee may possess multiple (i.e., in different specialties) modified supervision training certificates for specialties where reduced supervision is allowed in Table 945-1. Combination training certificates will not be issued.

Renewal of training certificates.

(5) An individual must apply for renewal of their training certificate on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for two years.

(6) An individual may renew their training certificate after the expiration date if the individual pays the late renewal fee listed in WAC ((~~296-46B-910~~) 296-46B-909).

(7) All applicants for training certificate renewal must:

- (a) Submit a complete renewal application;
- (b) Pay all appropriate fees; and

(c) Provide accurate evidence on the renewal form that the individual has completed the continuing education requirements described in WAC 296-46B-970. Continuing education classes are only valid when all the requirements of WAC 296-46B-970 are completed. If an individual files inaccurate or false evidence of continuing education information when renewing a training certificate, the individual's training certificate may be suspended.

Continuing education for trainees seeking pump and irrigation (**03**) and domestic pump (**03A**) experience credit may be comprised of fifty percent electrical and fifty percent plumbing instruction.

(d) Within thirty days after renewing an electrical training certificate, the individual, if not enrolled in a department approved apprenticeship program, must submit a completed, signed, and notarized affidavit(s) of experience for all hours of experience gained since the individual's last training certificate was effective.

Employers are required to provide the necessary documentation and signed affidavit of experience to the trainee within twenty days after the trainee requests the affidavit. See WAC 296-46B-965(6). See WAC 296-46B-985(4) for the penalty for providing a false or inaccurate affidavit of experience. If the individual is enrolled in a department approved apprenticeship program, the program may submit the required affidavit(s) of experience upon the individual's completion of the required experience hours without cost to the individual. The affidavit of experience must accurately attest to:

(i) The electrical installation work performed for each employer the individual worked for in the electrical trade during the previous period;

(ii) The correct electrical category the individual worked in; and

(iii) The actual number of hours worked in each category worked under the proper supervision of a Washington certified, master journeyman electrician, journeyman electrician or appropriate master specialty electrician or specialty electrician under that specific training certificate. If a trainee possesses multiple training certificates, an affidavit must be sub-

mitted for each training certificate for the hours worked under that specific training certificate.

If the individual is enrolled in a department approved apprenticeship program, the program may submit the required affidavit(s) of experience upon the individual's completion of the required experience hours without cost to the individual.

(8) An individual who has not completed the required hours of continuing education can renew a training certificate if the individual applies for renewal before the training certificate expires and pays the appropriate renewal fee. However, the training certificate will be placed in an inactive status. The inactive training certificate will be returned to current status upon validation, by the department, of the required continuing education.

(9) An individual may renew a suspended training certificate by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(10) An individual will not be issued a renewed or reinstated training certificate if the individual owes the department money as a result of an outstanding final judgment.

(11) The individual should ask each employer and/or apprenticeship training director for an accurately completed, signed, and notarized affidavit of experience for the previous certification period. The employer(s) or apprenticeship training director(s) must provide the previous period's affidavit of experience to the individual within twenty days of the request. If an individual is enrolled in an approved electrical construction trade apprenticeship program under chapter 49.04 RCW when the individual renews an electrical training certificate, the individual and their apprenticeship training director and/or each employer must give the department an accurately completed, signed, and notarized affidavit of experience accurately attesting to:

(a) The electrical installation work the individual performed in the electrical trade during the previous certification period;

(b) The correct electrical category the individual worked in; and

(c) The actual number of hours worked in each category under the proper supervision of a Washington certified master journeyman electrician, journeyman electrician or appropriate master specialty or specialty electrician for each employer. For apprentices enrolled in a registered apprenticeship program, the applicant and the training director are the only authorized signatures the department will accept on affidavits of experience.

(12) The individual and their employer(s) and/or apprenticeship training director(s) must sign and have notarized the affidavit of experience attesting to the accuracy of all information contained in the affidavit.

Trainees without supervision present on the job site.

(13) When the supervising electrician is found to not be present on the job site, the trainee will be given a form by the inspector that must be returned or postmarked within twenty-four hours to the inspector. If the supervising electrician fails or refuses to assist the trainee in completing the form, the

trainee must return the form with a signed and dated statement stating the supervising electrician's name and saying that the supervising electrician refused to assist. The form will require the following information:

- (a) Date and time the form was given to the trainee;
- (b) Job site address;
- (c) Contractor's name and contractor's license number;
- (d) Electrical work permit number;
- (e) The times the supervising electrician left and returned to the job site;
- (f) The trainee's beginning and ending times for that day for each job;
- (g) The trainee's name, training certificate number, and signature;
- (h) The supervising electrician's name, electrician certificate number, and signature.

(14) The trainee, supervising electrician, contractor, and assigned administrator or master electrician are responsible for ensuring compliance with subsection (13) of this section. See WAC 296-46B-985 (3)(c) and (f) for information about failing to submit or submitting false/fraudulent documents. Falsifying documents may be considered perjury and might result in criminal prosecution, civil penalty, or certificate revocation or suspension.

Trainees seeking a journeyman electrician certificate - working with no supervision.

((13)) (15) Trainee seeking a general (01) journeyman electrician certificate of competency. After review by the department, a trainee may be issued a six-month, nonrenewable unsupervised electrical training certificate that will allow the individual to work without supervision if the trainee:

- (a) Has submitted a complete application for an unsupervised electrical training certificate;
- (b) Has worked over seven thousand hours properly supervised not to include more than four thousand of specialty experience;
- (c) Has successfully completed or is currently enrolled in an approved apprenticeship program or an electrical construction trade program in a school approved by the board of community and technical colleges;
- (d) Has paid all appropriate training certificate fees listed in WAC ((296-46B-910)) 296-46B-909; and

(e) Is currently working for and continues to work for a licensed electrical contractor that employs at least one certified journeyman or specialty electrician in the appropriate specialty.

Trainees seeking certain specialty electrician certificates - working with reduced or no supervision.

((14)) (16) After review by the department, a trainee may be issued a nonrenewable zero percent supervision training certificate that will allow the individual to work without supervision if the trainee meets the requirements in subsection (4) of this section.

((15)) (17) Electrical trainees may work unsupervised when installing HVAC/R thermostat cable when the HVAC/R system consists of a single thermostat in one- and two-fam-

ily dwelling units where line voltage power has not been connected to the dwelling's electrical system.

AMENDATORY SECTION (Amending WSR 08-08-084, filed 4/1/08, effective 5/2/08)

WAC 296-46B-970 Continuing education. General requirements - continuing education classes requirements for administrator, master electrician, and electrician renewal.

- (1) DEFINITIONS - for purposes of this section.
 - (a) "Applicant" means the entity submitting an application for review.
 - (b) "Application" means a submittal made by an applicant seeking instructor or class approval.
 - (c) "Calendar day" means each day of the week, including weekends and holidays.
 - (d) "Class" means continuing education class or course.
 - (e) "Contractor" means the entity who has contracted with the department to review and approve/deny continuing education classes and instructors.
 - (f) "Date of notification" means the date of a request for additional information from the contractor or the approval/denial letter sent to the applicant by the contractor.
 - (g) "Individual" means an administrator or electrician seeking credit for continuing education.
 - (h) "Instructor" means an individual who is authorized to instruct an approved continuing education class.
 - (i) "Working day" means Monday through Friday, excluding state of Washington holidays.

- (2) GENERAL.
 - (a) The department and the electrical board have the right to monitor all approved classes without notice and at no charge.

If the department or electrical board determines that the class or instructor does not meet or exceed the minimum requirements for approval or course length or instructor qualifications, the department may revoke the class or instructor approval and reduce the number of credited hours for the class.

(b) Department-offered classes and the instructors used for those classes are automatically approved and do not need to be sent to the contractor for review.

(c) Instructors who meet the minimum requirements using subsection (5)(b)(i)(D) of this section may only instruct classes sponsored by the manufacturer(s) who verified the instructors' qualifications under subsection (5)(b)(i)(D) of this section.

(d) An individual will not be given credit for the same approved continuing education class taken more than once. No credit will be granted for any class not approved per this section.

(e) Telecommunications administrators do not require continuing educations.

(f) Other administrators, master electricians, and electricians:

(i) To be eligible for renewal of an administrator certificate, master electrician or electrician certificate of competency, the individual must have completed at least eight hours of approved continuing education for each year of the prior

certification period. The individual is not required to take the classes in separate years.

(A) At least eight hours of the total required continuing education must be on the changes in the 2008 National Electrical Code ((~~or if the renewal is before December 31, 2008, the 2005 National Electrical Code may be substituted. Beginning January 1, 2005,~~). For certificate renewal, "currently adopted" means a valid course approved as code update by the department and taken by the applicant since their last renewal date.)

(B) Four hours of the required continuing education must be on the currently adopted chapter 19.28 RCW and its related WAC(s).

(ii) An individual changing an electrical administrator and an electrician certificate of competency into a master electrician's certificate of competency as allowed in RCW 19.28.191 (1)(a) or (b) must have completed at least eight hours of approved continuing education for each year of the prior electrician certificate period. The individual is not required to take the classes in separate years.

(A) Eight hours of the required continuing education must be on the changes in the ((2008)) currently adopted National Electrical Code ((~~or if the renewal is before December 31, 2008, the 2005 National Electrical Code may be substituted. Beginning January 1, 2005,~~). For certificate renewal, "currently adopted" means a valid course approved as code update by the department and taken by the applicant since their last renewal date.)

(B) Four hours of the required continuing education must be on the currently adopted chapter 19.28 RCW and its related WAC(s).

(iii) Any portion of a year of a prior administrator or electrician certificate period is equal to one year for the purposes of the required continuing education.

(iv) An individual who has both an electrician certificate and an administrator certification may use the same class to fulfill the requirements for continuing education.

(g) Training certificates:

(i) ((Effective July 1, 2007,)) To be eligible for renewal of a training certificate, the individual must have completed:

(A) At least sixteen hours of approved basic classroom electrical training classes; or

(B) Equivalent electrical training courses taken as a part of an approved:

- Apprenticeship program under chapter 49.04 RCW; or
- Electrical training program under RCW 19.28.191

(1)(h).

Note that only trainees seeking experience credit in the pump and irrigation (**03**) or domestic pumping (**03A**) specialties ((~~must~~)) may take pumping industry basic classroom training classes;

In addition, trainees working in the pump and irrigation (**03**) or domestic pump (**03A**) specialties may be credited for courses approved as a part of the requirements for plumber trainees required in RCW 18.106.070(5).

(h) A continuing education class attended or completed by an individual before the class's effective date cannot be used to meet the certificate renewal requirements.

(i) If neither the electrical board nor the department has a contract in effect as described in this section, the department

may, at its option, elect to act as the contractor. If a contractor is not in place and the department elects not to act as the contractor, the electrical board will act as the contractor. If either the electrical board or the department acts as the contractor, the following will apply:

(i) The fee for class or instructor submittal is as set in WAC ((~~296-46B-910(4)~~)) **296-46B-909**.

(ii) The electrical board or the department will:

(A) Review the application for completeness within fifteen working days after receipt.

(B) If the application is incomplete, notify the applicant within seven working days of the status of the review and what additional information is required.

(C) Complete the review and approval/denial process within fifteen working days upon receipt of a complete application or additional requested information.

(iii) An appeal of a denial by the department will be heard by the full electrical board in accordance with WAC 296-46B-995.

(3) CLASS AND INSTRUCTOR - GENERAL APPROVAL PROCESS.

(a) The contractor will review submitted class and instructor applications to determine whether the application meets the minimum requirements for approval.

(b) The contractor will deny approval of applications that do not meet the minimum requirements.

(c) All applications will be considered to be new applications (i.e., Classes and instructors may not be renewed. All applications must include all information necessary to show conformance with the minimum requirements).

(d) Minimum requirements:

(i) Application review fees:

(A) The contractor may charge a fee for review of an application. Such fees, paid by the applicant, are nonrefundable.

(B) The fee will be as set by contractor between the department and the contractor.

(C) The fee will be set for a minimum of one year.

(D) Upon mutual agreement between the department and the contractor, the fee may be raised or lowered.

(ii) Application:

(A) The applicant must submit a complete application to the contractor at least thirty calendar days prior to offering or instructing a class.

(B) The contractor will only consider material included with the application when reviewing an application.

(C) All applications will consist of:

- One copy of all material;
- Applicant's name, address, contact name, and telephone number;

• All required fees;

• Any other information the applicant wants to consider during the review; and

• Class applications will include:

- Sponsor's name, address, contact name, and telephone number;
- Class title;
- Number of continuing education hours requested for the class;

- Category of class for which approval is sought (i.e., code update, RCW/WAC update, industry related, basic classroom electrical training, pumping industry, or pumping industry basic classroom training);
- Any required examinations;
- Statement of whether the class is open to the public;
- Class syllabus (e.g., general description of the training, specific NEC articles referenced, time allowed for various subject matter, etc.). Note that for all pumping industry classes, curriculum must include fifty percent electrical and fifty percent plumbing instruction;
- List of resources (e.g., texts, references, etc.);
- Copies of all visual aids;
- Sample of the completion certificate.
- Instructor application will include:
- Instructor's name, address, telephone number;
- Copies of credentials or other information showing conformance with the instructor minimum qualifications.

(e) Contractor's review process:

- (i) When the application is received, the contractor must:
 - (A) Date stamp the application;
 - (B) Review the application for completeness within seven working days after receipt.
- (ii) If the application is incomplete, the contractor must within two working days notify the applicant of the status of the review and what additional information is required.
 - (A) The applicant must provide any additional information requested by the contractor within five working days after the date of notification.
 - (B) The contractor will deny the application if the additional required information is not received within the five working days after the date of notification.
 - (iii) When the contractor has received a complete application, the contractor must review and evaluate the application for compliance with the minimum requirements.

The contractor must complete the review and approval/denial process within seven working days upon receipt of a complete application or additional requested information and within two working days notify:

- The applicant in writing; and
- The chief electrical inspector in writing and electronically. The contractor's electronic notification to the chief electrical inspector must be made in a format approved by the chief electrical inspector.
- (iv) A notification of denial must include:
 - (A) Applicant's name and telephone number;
 - (B) Date of denial;
 - (C) Sponsor's name and class title if applicable;
 - (D) Instructor's name if applicable; and
 - (E) The reason for denial.
- (v) A notification of approval:
 - (A) For classes must include:
 - Applicant's name and telephone number;
 - Sponsor's name and telephone number;
 - Class title;
 - Class number;
 - Number of hours approved for the class. Note that the contractor may reduce the hours requested in the application if the review shows that the requested number of hours is excessive;

- Effective date for this class;
- Expiration date of class;
- Category for which the class is approved (i.e., code update, RCW/WAC update, industry related, basic classroom electrical training, pumping industry, or pumping industry basic classroom training);

- Sample of written class roster and attendance sheet;
- Type of class (i.e., classroom, correspondence, internet); and
- Whether the class is open to the public.

(B) For instructors must include:

- Applicant's name and telephone number;
- Instructor's name and telephone number;
- Effective date for the approval; and
- Expiration date of the approval.

(vi) Applicant's request for review of the contractor's decision:

The applicant's may request a review of the contractor's decision to deny or modify an application:

- All requests for review must be:
- Made in writing;
- Received by the chief electrical inspector within twenty calendar days of the contractor's denial; and
- Accompanied by a review fee of \$109.50. The review fee is nonrefundable.

(4) CLASS APPROVAL PROCESS.

(a) Class approval will be valid for three years except:

- (i) If the class is "code update" and a new NEC is adopted by the department within the class approval period, the class approval will be considered automatically revoked; or

- (ii) If the class is modified after the application is approved, the class approval will be considered automatically revoked (i.e., change in syllabus, hours, examination, etc.).

(b) Minimum requirements:

(i) Class content:

(A) Industry-related classes must be based on:

- Codes or rules included in the NEC chapters 19.28 RCW or 296-46B WAC;
- Electrical theory based on currently published documents that are readily available for retail purchase; and/or
- Materials and methods that pertain to electrical construction, building management systems, electrical maintenance, or workplace health and safety.

(B) Code update classes must be based on the latest adopted version of the NEC and must specify the NEC articles to be addressed in the class presentation.

(C) RCW/WAC update classes must be based on the latest adopted versions of chapter 19.28 RCW and/or chapter 296-46B WAC.

(D) All basic classroom electrical training classes and pumping industry basic classroom training classes must be classroom instruction only. Correspondence and internet classes are not allowed. All basic classroom electrical training classes must include an appropriate written examination to ensure the participant understands the basic concepts of the class. To successfully complete the class, the participant must score at least seventy percent on the examination.

(E) In addition, for pumping industry classes, curriculum must include fifty percent electrical and fifty percent plumbing instruction.

(ii) Class length:

(A) The minimum allowed length of a class is two hours; however, the minimum length for a basic classroom electrical trainee classroom training or pumping industry basic classroom trainee classroom training is eight hours that can be delivered in multiple classroom sessions of not less than two hours each.

(B) The maximum allowed credit for a class is twenty-four hours.

(C) Class length must be based on two-hour increments (e.g., 2, 4, 6, 8, etc.).

(D) Class length must be based on the following:

- Classroom instruction will be based on the total hours the individual is in the classroom. A class may be divided into multiple sections so long as each section is not less than two hours in length and all sections are taken within a one month period.

• Correspondence instruction will be based on:

- A written examination (i.e., twenty-five questions will equal one hour of classroom instruction). Individuals must be responsible to determine the correct answer without the assistance of the sponsor.

• Internet instruction will be based on:

- A written examination (i.e., twenty-five questions will equal one hour of classroom instruction).

- Examinations must not direct or point the individual to a correct answer or reference. Individuals must be responsible to determine the correct answer without the assistance of the sponsor.

- To successfully complete a correspondence or internet class, a participant must score at least 70% on the examination required for the class.

(iii) Class material must include:

Supplementary written instruction material appropriate to the type and length of the class.

(iv) Class material may include:

- Supplementary internet material;
- Supplementary texts;
- Other material as appropriate.

(v) Certificates of completion:

(A) The sponsor must award a completion certificate to each individual successfully completing the approved class. To successfully complete a correspondence or internet class, a participant must score at least 70% on the examination required for the class.

(B) The completion certificate must include the:

- Name of participant;
- Participant's Washington certificate number;
- Name of sponsor;
- Name of class;
- Date of class;
- Name of instructor;
- Location of the class:

- If a classroom-type class, the city and state in which the class was given;

- If a correspondence class, state the class is a correspondence class;

- If an internet class, state the class is an internet class;
- Class approval number;
- Number of continuing units; and
- Type of continuing education units.

(vi) Instructors:

(A) For classroom instruction, all instructors must be approved per this section; and

(B) For correspondence and internet instruction, the applicant must show that the sponsor regularly employs at least one staff member who meets the requirements for instructors in this section.

(5) INSTRUCTOR APPROVAL PROCESS:

(a) Instructor approval will be valid for three years except:

- (i) If the instructor's credentials are invalidated (e.g., suspension or revocation by the issuing entity) for any reason, approval will be automatically revoked.

- (ii) When the instructor approval expires or is revoked, a new application must be submitted to regain approved instructor status.

(b) Minimum requirements:

(i) The application must show that the instructor meets one of the following:

- (A) Has a valid Washington administrator, master electrician, or electrician's certificate and has appropriate knowledge of and experience working as an electrical/electronic trainer; or

- (B) Is an instructor in a two-year program in the electrical construction trade licensed by the Washington work force training and education coordinating board. The instructor's normal duties must include providing electrical/electronic education; or

- (C) Is a high school vocational teacher, community college, college, qualified instructor with a state of Washington approved electrical apprenticeship program, or university instructor. The instructor's normal duties must include providing electrical/electronic education; or

- (D) Works for and is approved by a manufacturer of electrical products to teach electrical continuing education.

- (ii) Any other information the applicant wants to be considered during the review.

(6) FORMS:

(a) The contractor will:

Develop an appropriate form(s) for the applicant's use when submitting for instructor or class approval;

(b) Applicants must use the contractor's form when submitting an application for review.

(7) PUBLICATIONS:

The contractor will provide the department with appropriate material for use by the department on the electrical program web site and may post the application process, review, and approval requirements on the contractor's web site.

(8) CLASS ATTENDANCE:

(a) The contractor is not responsible for monitoring any individual's attendance or class completion.

(b) The department is not responsible for providing verification of an individual's continuing education history with the class sponsor;

(c) Electrical approved classes offered in Washington:

(i) The sponsor must provide the department with an accurate and typed course attendance/completion roster for each class given. Class attendance will only be verified based on the attendance/completion roster provided by the sponsor. Completion certificates are not an acceptable method of verifying attendance at a class approved in Washington under this chapter.

(A) The typed attendance/completion roster must be provided within thirty days of class completion.

(B) In addition, within seven days, the course sponsor must provide the attendance/completion roster in an internet format provided by the department.

(C) The attendance/completion roster must show each individual's name, Washington certificate number, class number, location of class, date of completion, and instructor's name. The typed roster must contain the signature of the class sponsor's authorized representative.

(ii) The sponsor must provide the individual a certificate of completion within fifteen days after successful class completion. See subsection (4) of this section.

(iii) Individuals will not be granted credit for continuing education classes unless the sponsor's attendance/completion roster shows the individual successfully completed the class.

(iv) The department will keep submitted class rosters on file for four years.

(d) Classes approved under chapter 18.106 RCW for the pumping industry will be verified through the normal roster reporting method for those classes.

(e) Classes offered in other states:

(i) For individuals to apply continuing education units earned from out-of-state classes, one of the following conditions must be met:

(A) The individual must request that the class sponsor submit a complete continuing education class application and gain approval for the class as described in this section for classes and instructors. Application for class or instructor approval will not be considered more than three years after the date the class was offered; or

(B) The department must have entered into a reciprocal agreement with the state providing class approval.

(ii) The individual must provide a copy of an accurate and completed award or certificate from the class sponsor identifying the class location, date of completion, individual's names, and Washington certificate number. The department will only accept a copy of the sponsor's certificate or form as evidence that the individual attended and completed the class. The department must verify all out-of-state sponsor's certificates or forms with the issuing state prior to accepting them as evidence of class completion.

(9) Contractor requirements:

(a) The contractor cannot be a sponsor or instructor.

(b) The contractor cannot be an employee of the department.

(c) The contractor must:

(i) Be an independent entity with no organizational, managerial, financial, design, or promotional affiliation with any sponsor or instructor covered under the contractor's review and approval/denial process;

(ii) Employ at least one staff member having a valid 01-General Administrator or 01-General Master Electrician Certificate. This staff member:

(A) Is responsible for reviewing and determining an application's approval or denial; and

(B) Must sign the written notification provided to applicants for all approvals and denials:

(iii) Receive, review, and process all applications as required in this section;

(iv) Allow the department access to the contractor's facilities during normal working hours to audit the contractor's ability to conform to the contract requirements;

(v) Treat all applications as proprietary information;

(vi) Respond to and attempt to resolve complaints contesting the review or approval/denial process performed by the applicant;

(vii) Notify the department within ten working days of any change in business status or ability to conform to this section;

(viii) Maintain one copy, original or electronic, of all applications and associated materials for a period of three years from the date of receipt.

AMENDATORY SECTION (Amending WSR 08-08-084, filed 4/1/08, effective 4/1/08)

WAC 296-46B-995 Electrical board—Appeal rights and hearings. General.

(1) Chapter 19.28 RCW provides the authority for the duties and responsibilities of the electrical board. Except as provided in chapter 19.28 RCW and this chapter, all proceedings will be conducted according to chapter 34.05 RCW the Administrative Procedure Act and chapter 10-08 WAC, Model rules of procedure. See chapter 34.05 RCW the Administrative Procedure Act for specific definitions not described in this chapter.

(2) See RCW 19.28.311 for the composition of the electrical board.

(3) The board adopts the current edition of the "*Roberts' Rules of Order, Newly Revised.*"

(4) The board will hold regular meetings on the last Thursday of January, April, July, and October of each year per RCW 19.28.311.

(5) The director or the chairperson of the board may call a special meeting at any time.

(6) Each board member must be notified in writing of the agenda, date, time, and place of each regular and special meeting. "Writing" includes by electronic mail, also known as "e-mail," if the member has provided an e-mail address for such notice.

(7) The board or department may elect to have an appeal heard by the office of administrative hearings either tape recorded or transcribed by a court reporter; and the board may so elect regarding hearings or board reviews heard by the board as a whole.

(8) A majority of the board constitutes a quorum for purposes of rendering any decision.

(a) If a majority does not attend a hearing or board review on an appeal, the board may either continue the hear-

ing or board review to a date certain or may hear the testimony and arguments.

(b) If the board hears the testimony and arguments, the members of the board who are absent may make their decisions after hearing the tape recording or reading the transcript, of the hearing or board review.

(c) If the board selects the method in subsection (8)(b) of this section, at the time of the hearing, the board shall set a date certain for the absent members to complete review of the record and for the board as a whole to vote on the decision. The vote in subsection (8)(b) and (c) of this section may occur by U.S. mail, facsimile or by electronic mail and shall be determined by the board at the hearing; the members' votes shall be public record.

(9) All filings and documents for any matter before the board must be submitted to the chief electrical inspector, as secretary to the board, 7273 Linderson Way, P.O. Box 44460, Olympia, WA 98504-4460. (The) Twenty copies of filings ((may)) and documents must be submitted by ordinary mail, certified or registered mail, or by personal delivery. Filings and documents must be received no later than forty-five days prior to the scheduled meeting. When filings or documents are received after the deadlines, the filings and documents will be presented to the board at the second regularly scheduled board meeting.

(10) All hearings before the board as a whole shall be held on regularly scheduled meeting dates, as listed in subsection (4) of this section, unless the board determines that an alternate date is necessary. All notices of appeal, with a certified check payable to the department in the sum of two hundred dollars if required, must be received in the office of the chief electrical inspector, as secretary to the board, at least ((thirty)) forty-five days before the regularly scheduled board meeting at which the hearing would occur. For original appeals to the board, the appellant must submit twenty copies of any written argument, briefs testimony or documents for the board's consideration at least ((twenty)) forty-five days prior to the scheduled hearing. When appeals, written argument, briefs, testimony, or documents are received after the deadlines, the appeals, written argument, briefs, testimony, or documents will be presented to the board at the second regularly scheduled board meeting.

Appeals

(11) Appeals of penalties issued by the department.

(a) A party may appeal a penalty issued by the department, pursuant to chapter 19.28 RCW and this chapter, to the board. The appeal shall be assigned to the office of administrative hearings.

(b) The appeal must be filed within twenty days after the notice of the decision or penalty is given to the assessed party either by personal service or by certified mail, return receipt requested, sent to the last known address of the assessed party and shall be made by filing a written notice of appeal with the chief electrical inspector, as secretary to the board. The request for an appeal must be accompanied with a certified check payable to the department in the sum of two hundred dollars.

(12) Appeals of proposed decisions issued by the office of administrative hearings.

(a) A party may appeal a proposed decision issued by the office of administrative hearings pursuant to chapter 19.28 RCW to the board. The appeal must be filed within twenty days after service of the decision and must be made by filing a written notice of appeal with the chief electrical inspector, as secretary to the board.

(b) The notice of appeal of a proposed decision must be received in the office of the chief electrical inspector, as secretary to the board, at least thirty days before a regularly scheduled board meeting. All parties must submit any written argument, briefs testimony or documents for the board's consideration at least twenty days prior to the scheduled hearing.

(13) Appeals of suspension, revocation, or nonrenewal.

(a) An appeal of the suspension or revocation of a license or certificate of competency under RCW 19.28.241 and 19.28.341 or of nonrenewal of a license or certificate of competency under this chapter will be heard by the board in accordance with chapter 34.05 RCW and not assigned to the office of administrative hearings. The board will conduct the hearing and may elect to have the assistance of an administrative law judge in the proceeding.

(b) The notice of appeal, with the certified check payable to the department in the sum of two hundred dollars for appeals of a revocation or suspension of a contractor's or administrator's license, must be filed within twenty days after the notice of suspension or revocation is served on the subject of said action, either by personal service or by certified mail, return receipt requested, sent to the last known address of the subject and shall be filed by written notice of appeal with the chief electrical inspector, as secretary to the board.

(14) Appeals of decisions on installation.

(a) A party may seek board review for disputes relating to the interpretation and application of electrical/telecommunications installation or maintenance standards under RCW 19.28.111, 19.28.480, and 19.28.531. The board will conduct the hearing and may elect to have the assistance of an administrative law judge in the proceeding.

(b) The notice of appeal, with the certified check payable to the department in the sum of two hundred dollars, must be received in the office of the chief electrical inspector, as secretary to the board, at least thirty days before a regularly scheduled board meeting. All parties must submit any written argument, briefs testimony or documents for the board's consideration at least twenty days prior to the scheduled hearing.

(15) Appeals of a continuing education class or instructor for denials or revocations.

A party may appeal a decision issued by the department, pursuant to WAC 296-46B-970 (3)(e)(vi), if the department acts as the contractor pursuant to WAC 296-46B-970 (2)(i) to the superior court per RCW 34.05.542(3).

(16) Appeals pertaining to engineer approval or electrical testing laboratory recognition and accreditation.

(a) A party may appeal a decision issued by the department pursuant to WAC 296-46B-997 or 296-46B-999. The appeal will be heard by the board in accordance with chapter 34.05 RCW and not assigned to the office of administrative hearings. The board will conduct the hearing and may elect to have the assistance of an administrative law judge in the proceeding.

(b) The notice of appeal, with the certified check payable to the department in the sum of two hundred dollars for appeals pertaining to engineer approval or recognition and accreditation of an electrical testing laboratory, must be filed within twenty days after the notice of the department's decision is served on the subject of said action, either by personal service or by certified mail, return receipt requested, sent to the last known address of the subject and shall be filed by written notice of appeal with the chief electrical inspector, as secretary to the board.

(17) Judicial review of final decisions of the board.

A party may seek judicial review of a final order of the board within thirty days after service of the decision. Appeals of final decisions and orders must be done in accordance with chapter 34.05 RCW.

(18) If appeal(s) according to subsections (11), (12), (13), and (15) of this section are not filed or the appeal is not filed timely, the proposed decision or action becomes final with no further action on the part of the department or the board.

(19) Appeals - general requirements.

(a) Appeals according to subsections (11), (12), or (15) of this section must specify the contentions of the appellant, and must for subsection (12) of this section specify to which conclusions of law and findings of fact the party takes exception. The appeal will be based on the record of the hearing. The board shall not grant a hearing de novo.

(b) In appeals under subsections (12), (13), (14), and (15) of this section, the issues to be adjudicated must be made as precise as possible, in order that the board may proceed promptly to conduct the hearing on relevant and material matter only.

(c) In all appeals of chapter 19.28 RCW and this chapter heard before the office of administrative hearings or directly by the board, the department has the burden of proof by a preponderance of the evidence.

(d) In all appeals of a decision by the office of administrative hearings to the board, the party aggrieved by the decision of the office of administrative hearings has the burden of proof by a preponderance of the evidence.

Appearance and practice before board.

(20) No party may appear as a representative in proceedings other than the following:

(a) Attorneys at law qualified to practice before the supreme court of the state of Washington;

(b) Attorneys at law qualified to practice before the highest court of record of another state, if the attorneys at law of the state of Washington are permitted to appear as representatives before administrative agencies of the other state, and if not otherwise prohibited by Washington law; or

(c) An owner, officer, partner, or full-time employee of a firm, association, organization, partnership, corporation, or other entity who appears for the firm, association, organization, partnership, corporation or other entity.

(21) All persons appearing in proceedings as a representative must conform to the standards of ethical conduct required of attorneys before the courts of Washington. If a person does not conform to these standards, the board may

decline to permit the person to appear as a representative in any proceeding before the board.

AMENDATORY SECTION (Amending WSR 06-05-028, filed 2/7/06, effective 5/1/06)

WAC 296-46B-997 Engineer approval. (1) This section describes the methods required to obtain recognition and accreditation of professional engineers registered under chapter 18.43 RCW to approve industrial utilization equipment. This section provides assurance to the general consuming public that electrical products have been tested for safety and identified for their intended use.

(2) Industrial utilization equipment is considered to be safe when it is certified by an engineer accredited by the department.

(a) The department may declare industrial utilization equipment unsafe if:

(i) The equipment is not being manufactured or produced in accordance with all standards of design and construction and all terms and conditions set out in the certification report for the equipment referred to in this chapter;

(ii) The equipment has been shown by field experience to be unduly hazardous to persons or property;

(iii) An examination of the equipment or of the certification report for the equipment shows that the equipment does not comply with all applicable standards; or

(iv) An examination of the certification report or the equipment shows that the equipment cannot be installed in accordance with this chapter.

(b) When the department declares industrial utilization equipment unsafe, the department will notify the product owner and the certifying engineer in writing.

Accreditation - general.

(3) The department's chief electrical inspector's office reviews requests for accreditation. Applicants must submit supporting data to document and verify the requirements of this section have been met.

(4) The accreditation of an engineer will be valid for the period of three years.

(5) On-site inspection of an engineer's facilities.

(a) On-site inspection of the facility(ies) may be required during the initial application process or the renewal process. Representative(s) of the department will evaluate for compliance with accreditation criteria.

(b) The applicant must pay all costs associated with the on-site inspection.

(6) For purposes of chapter 19.28 RCW, all engineers who certify industrial utilization equipment offered for sale in the state of Washington must be accredited by the department.

(7) Fees are payable as required in WAC 296-46B-911.

(8) The engineer must apply for renewal of accreditation at least thirty days prior to the accreditation expiration date. The department will renew accreditation for the period of three years or notify the renewing engineer of the department's reason(s) of refusal following receipt of the completed form and renewal fee.

(9) The department accepts or denies engineer accreditation for engineers seeking to evaluate industrial utilization equipment within the state. Accreditation is determined when an engineer provides evidence to the department that all the requirements of this chapter are met. Accreditation is determined by the department and prior to making a determination, the department may require information and documentation to be provided by the engineer.

(a) Accreditation is subject to review when deemed necessary by the department. The engineer must pay all costs associated with on-site review.

(b) Every accredited engineer must continue to satisfy all the conditions specified in this chapter during the period of the accreditation. An engineer must furnish the department an annual report detailing the extent of its activities for the year. The report must include, but not be limited to:

(i) The number of industrial utilization equipment items approved;

(ii) Organizational structure of the engineer's company;

(iii) Statement of ownership of the engineer's company; and

(iv) Reports of litigation, which in any way were the result of or may affect any accreditation or testing of products covered by this chapter.

(c) The department will notify the applicant of the accreditation results. A letter of accreditation from the department is proof of the accreditation of the engineer.

(10) The engineer will be approved to certify industrial utilization equipment.

Suspension or revocation.

(11) The department may suspend, revoke, or refuse to renew the department's accreditation of any engineer found to be in noncompliance with requirements of this chapter, the laws of the state of Washington, or submitting false information.

(12) The department will serve written notice of intent prior to suspension, revocation, or refusal to renew the accreditation of an engineer.

(13) An engineer, whose accreditation has been suspended, may not reapply for accreditation during the period of such suspension. An engineer, whose accreditation has been revoked, may reapply for accreditation no sooner than two years after the date of revocation of accreditation.

Business structure, practices, and personnel.

(14) The engineer must be an independent, third-party organization with no organizational, managerial, financial, design, or promotional affiliation with owners, manufacturers, suppliers, installers, or vendors of products covered under the engineer's certification or evaluation programs.

The engineer must have an adequate diversity of clients or activity so that the loss or award of a specific contract regarding certification or evaluation would not be a deciding factor in the financial well-being of the engineer.

(15) The engineer must adequately meet the following business practices:

(a) Perform the examinations, tests, evaluations, and inspections required under the certifications programs in accordance with the designated standards and procedures;

(b) Assure that reported values accurately reflect measured and observed data;

(c) Limit work to that for which competence and capacity is available;

(d) Treat test data, records, and reports as proprietary information;

(e) Respond to and attempt to resolve complaints contesting certifications and evaluation results;

(f) Maintain an independent relationship between its clients, affiliates, and other organizations so the engineer's capacity to give certifications and evaluations objectively and without bias is not adversely affected; and

(g) Notify the department within thirty calendar days should it become unable to conform to any of the requirements of this chapter.

(16) Engineers accredited under this chapter must notify the department within thirty calendar days of any of the following:

(a) Change in company name and/or address;

(b) Changes in major test equipment which affect the ability to perform work for which accredited; or

(c) Change in independent status.

(17) The engineer must develop and maintain a certification or evaluation program plan that includes, but is not limited to:

(a) The procedures and authority to ensure the product complies with the standard(s) established by the program;

(b) A quality control system;

(c) Verification and maintenance of facilities and/or equipment; or

(d) Sample selection as applicable for product certifications, and for component testing as necessary for evaluations.

The plan must demonstrate that the engineer has adequate facilities, and equipment to perform all certifications and testing for which it is accredited by the state of Washington. These elements must be contained in the engineer's operations control manual.

(18) The engineer must develop and maintain a quality control system adequate to assure the accuracy and technical integrity of its work as follows:

(a) The engineer's quality control system must include a quality control or engineer's operations control manual;

(b) The quality control or engineer's operations control manual must be adequate to guide a testing technician or inspector in conducting the inspection, evaluation, and/or test in accordance with the test methods and procedures required for the engineer's certification and/or evaluation program(s); and

(c) The engineer must have a current copy of the quality control or engineer operations control manual available for the engineer's use.

(19) The engineer must have training, technical knowledge, and experience adequate to perform the tests, examinations, and evaluations for the certification and/or evaluation activities for which recognition is sought.

(20) The engineer must:

(a) Provide adequate safeguards protecting the engineer's status from the influence or control of manufacturers, vendors, owners, or installers of electrical products certified or tested by the engineer; and

(b) Develop and maintain an adequate training program assuring that the engineer will be able to perform tasks properly and uniformly.

Recordkeeping and reporting - general.

(21) The engineer must develop and maintain records and reports of those testing, inspection, certification, and evaluation activities associated with each piece of industrial utilization equipment. The engineer must retain these records for a minimum of three years.

(22) The engineer must make available to the department, upon request, all records required by the department to verify compliance with this chapter.

(23) Before beginning the work, the engineer must notify the department of the intent to evaluate using forms provided by the department. See WAC 296-46B-905 for fee information. The engineer's evaluation report must include:

(a) Name and address of the engineer;

(b) Name of client;

(c) Address where the evaluated product is or will be installed;

(d) Designation of standards used to certify or test the product including edition and latest revision (e.g., UL 508, 16th Edition, Feb. 1993, Revision Oct. 9, 1997);

(e) Description of the overall product evaluated to include full nameplate data and equipment type;

(f) A statement as to whether or not the results comply with the requirements of the standard;

(g) Pertinent test evaluation data and identification of tests or inspections including anomalies;

(h) The engineer's stamp; and

(i) Any condition of acceptability or restrictions on use/relocation.

(24) Within ((thirty)) ten calendar days after affixing the evaluation mark, the engineer must submit a copy of the evaluation report to:

(a) The department's chief electrical inspector submitted electronically in a format approved by the department;

(b) Local electrical inspection office submitted electronically in a format approved by the department; and

(c) Client submitted in any format acceptable to the client and engineer.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-46B-905

Temporary fees—Inspection fees.

WAC 296-46B-910

Temporary fees—Electrical/telecommunications contractor's license, administrator certificate and examination, master electrician certificate and examination, temporary, electrician certificate and examination, temporary electrician permit, copy, and miscellaneous fees.

WAC 296-46B-998

Standards.

WSR 08-24-050

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 25, 2008, 3:21 p.m., effective December 26, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? and 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food? These changes update income and deduction standards used for Basic Food and WASHCAP as required under regulations for the food stamp program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0190 and 388-478-0060.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Adopted under notice filed as WSR 08-18-049 on August 29, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 18, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-22-035, filed 10/30/07, effective 11/30/07)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? The department calculates your shelter cost income deduction as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or mortgage payments you make ahead of time as an allowable cost. We count the following expenses as an allowable shelter cost in the month the expense is due:

- (a) Monthly rent, lease, and mortgage payments;
- (b) Property taxes;

- (c) Homeowner's association or condo fees;
 - (d) Homeowner's insurance for the building only;
 - (e) Utility allowance your AU is eligible for under WAC 388-450-0195;
 - (f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;
 - (g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:
 - (i) AU intends to return to the home;
 - (ii) AU has current occupants who are not claiming the shelter costs for Basic Food purposes; and
 - (iii) AU's home is not being leased or rented during your AU's absence.
- (2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (5) from your AU's gross income. The result is your AU's net income.
- (3) Finally, we subtract one-half of your AU's net income from your AU's total shelter costs. The result is your

EFFECTIVE ((+0-1-2007)) 10-1-2008				
Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$((+107)) <u>1,127</u>	\$((854)) <u>867</u>	\$((+62)) <u>176</u>	\$((+404)) <u>1,430</u>
2	((+484)) <u>1,517</u>	((+141)) <u>1,167</u>	((298)) <u>323</u>	((+883)) <u>1,925</u>
3	((+861)) <u>1,907</u>	((+431)) <u>1,467</u>	((426)) <u>463</u>	((2,361)) <u>2,420</u>
4	((2,238)) <u>2,297</u>	((+721)) <u>1,767</u>	((542)) <u>588</u>	((2,840)) <u>2,915</u>
5	((2,615)) <u>2,687</u>	((2,011)) <u>2,067</u>	((643)) <u>698</u>	((3,318)) <u>3,410</u>
6	((2,992)) <u>3,077</u>	((2,301)) <u>2,367</u>	((772)) <u>838</u>	((3,797)) <u>3,905</u>
7	((3,369)) <u>3,467</u>	((2,591)) <u>2,667</u>	((853)) <u>926</u>	((4,275)) <u>4,400</u>
8	((3,746)) <u>3,857</u>	((2,881)) <u>2,967</u>	((975)) <u>1,058</u>	((4,754)) <u>4,895</u>
9	((4,123)) <u>4,247</u>	((3,171)) <u>3,267</u>	((1,097)) <u>1,190</u>	((5,233)) <u>5,390</u>
10	((4,500)) <u>4,637</u>	((3,461)) <u>3,567</u>	((1,219)) <u>1,322</u>	((5,712)) <u>5,885</u>
Each Additional Member	+((377)) <u>390</u>	+((290)) <u>300</u>	+((122)) <u>132</u>	+((479)) <u>495</u>

Exceptions:

(1) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C. We do budget your AU's income to decide the amount of Basic Food your AU will receive.

excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of four hundred ((~~thirty-one~~)
forty-six) dollars if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over four hundred ((~~thirty-one~~)
forty-six) dollars.

AMENDATORY SECTION (Amending WSR 07-22-035, filed 10/30/07, effective 11/30/07)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food? If your assistance unit (AU) meets all other eligibility requirements for Basic Food, your AU must have income at or below the limits in column B and C to get Basic Food, unless you meet one of the exceptions listed below. The maximum monthly food assistance benefit your AU could receive is listed in column D.

(2) If your AU includes a member who is sixty years of age or older or has a disability, your income must be at or below the limit in column C only.

(3) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E to decide if you can be a separate AU.

(4) If your AU has zero income, your benefits are the maximum allotment in column D, based on the number of eligible members in your AU.

WSR 08-24-051
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 25, 2008, 3:22 p.m., effective December 26, 2008]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-412-0015 General information about your Basic Food allotments and 388-450-0185 Does the department count all of my income to determine my eligibility and benefits for Basic Food?

The rules provide standards used to determine monthly benefit levels for the Washington Basic Food program and the WASHCAP program. These changes update income and deduction standards used for Basic Food and WASHCAP as required under regulations for the food stamp program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-412-0015 and 388-450-0185.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Adopted under notice filed as WSR 08-18-050 on August 29, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 18, 2008.

Stephanie E. Schiller
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-02-016, filed 12/27/04, effective 1/27/05)

WAC 388-412-0015 General information about your Basic Food allotments. (1) Your monthly Basic Food benefits are called an allotment. An allotment is the total dollar value of benefits your eligible assistance unit (AU) gets for a calendar month.

(2) You cannot receive the same type of benefit in:

(a) Two states in the same month;

(b) Two AUs in the same month, unless;
 (c) You left the AU to live in a shelter for battered women and children. See WAC 388-408-0045.

(3) If your AU does not have any countable net income, you get the maximum allotment for the number of eligible people in your AU. See WAC 388-478-0060 for the maximum allotments.

(4) If your AU has countable net income under WAC 388-450-0162, we calculate, your allotment by:

(a) Multiplying your AU's countable net monthly income by thirty percent;

(b) Rounding this amount up to the next whole dollar; and

(c) Subtracting the result from the maximum allotment.

(5) If we determine you are eligible for Basic Food, your first month's benefits are from the date you applied for benefits through the end of the month of your application. If there was a delay in processing your application, we determine when your benefits start under WAC 388-406-0055. This is called proration and is based on a thirty-day month.

(6) If you apply for benefits on or after the sixteenth of the month, and we determine you are eligible for Basic Food, we issue both your first and second months benefits in one allotment if you are eligible for both months.

(7) If your prorated benefits for the first month are under ten dollars, you will not receive an allotment for the first month.

(8) If your AU has one or two members, your monthly allotment will be at least ((ten)) fourteen dollars unless:

(a) It is the first month of your certification period;

(b) Your AU is eligible for only a partial month; and

(c) We reduced your first month's allotment below ((ten)) fourteen dollars based on the date you became eligible for Basic Food under WAC 388-406-0055.

AMENDATORY SECTION (Amending WSR 07-22-035, filed 10/30/07, effective 11/30/07)

WAC 388-450-0185 Does the department count all of my income to determine my eligibility and benefits for Basic Food? We subtract the following amounts from your assistance unit's (AU's) countable income before we determine your Basic Food benefit amount:

(1) A standard deduction based on the number of people in your AU under WAC 388-408-0035:

Eligible and ineligible

AU members	Standard deduction
1	\$((+34)) <u>144</u>
2	\$((+34)) <u>144</u>
3	\$((+34)) <u>144</u>
4	\$((+43)) <u>147</u>
5	\$((+67)) <u>172</u>
6 or more	\$((+94)) <u>197</u>

(2) Twenty percent of your AU's gross earned income (earned income deduction);

(3) Your AU's expected monthly dependent care expense ((as described below)) needed for an AU member to:

- (a) ((The dependent care must be needed for AU member to:
 (i)) Keep work, look for work, or accept work;
 ((ii))) (b) Attend training or education to prepare for employment; or
 ((iii))) (c) Meet employment and training requirements under chapter 388-444 WAC.
 ((b)) We subtract allowable dependent care expenses that are payable to someone outside of your AU:
 (i) Up to two hundred dollars for each dependent under age two; and
 (ii) Up to one hundred seventy five dollars for each dependent age two or older.)
 (4) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200.
 (5) Legally obligated current or back child support paid to someone outside of your AU:
 (a) For a person who is not in your AU; or
 (b) For a person who is in your AU to cover a period of time when they were not living with you.
 (6) A portion of your shelter costs as described in WAC 388-450-0190.

WSR 08-24-057
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

(Division of Credit Unions)

[Filed November 26, 2008, 10:49 a.m., effective December 31, 2008]

Effective Date of Rule: December 31, 2008.

Purpose: Rule will increase credit union assessments and fee rates, in accordance with the fiscal growth factor (chapter 43.135 RCW), and makes related technical changes.

Citation of Existing Rules Affected by this Order: Repealing WAC 208-418-090; and amending WAC 208-418-010, 208-418-040 through 208-418-100.

Statutory Authority for Adoption: Chapter 43.135 RCW, RCW 43.320.040, chapter 285, Laws of 2008.

Other Authority: RCW 31.12.516(6).

Adopted under notice filed as WSR 08-15-044 on July 11, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 5, Repealed 1; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 26, 2008.

Linda Jekel, Director
 Division of Credit Unions

AMENDATORY SECTION (Amending WSR 01-12-004, filed 5/23/01, effective 6/23/01)

WAC 208-418-010 Definitions. Unless the context clearly requires otherwise, as used in this chapter:

(1) "Credit union" includes a Washington credit union, an out-of-state credit union and a foreign credit union.

(2) "Foreign credit union" means a credit union organized and operating under the laws of another country or other foreign jurisdiction, that is operating a branch in Washington in accordance with RCW 31.12.471.

(3) "Hourly fee" means a fee of \$((57.42)) 64.35 per hour per examiner or other staff person of the division.

(4) "Out-of-state credit union" means a credit union organized and operating under the laws of another state or U.S. territory or possession, that is operating a branch in Washington in accordance with RCW 31.12.471.

(5)(a) "Total assets" of a Washington credit union includes all assets of the credit union as reported on the credit union's most recent form 5300 or similar financial report.

(b) "Total assets" of an out-of-state or foreign credit union is derived from the following fraction:

$$\frac{\text{Total assets} \times \text{in-state } ((\text{branch})) \text{ shares and deposits}}{\text{Total shares and deposits}}$$

"Total assets" and "shares and deposits" include respectively all assets and shares and deposits as reported on the credit union's most recent form 5300 or similar financial report.

(6) "Washington credit union" means a credit union organized and operating under chapter 31.12 RCW.

AMENDATORY SECTION (Amending WSR 01-12-004, filed 5/23/01, effective 6/23/01)

WAC 208-418-040 Quarterly asset assessments. (1)

The director will charge each credit union a quarterly asset assessment at the rate set forth in subsection (2) of this section. Asset assessments will be due on January 1, April 1, July 1, and October 1. Asset assessments must be paid no later than thirty days after their due date. The assessments will be computed on total assets as of the prior June 30 for the October 1 and January 1 assessments, and as of the prior December 31 for the April 1 and July 1 assessments.

(2)	Credit Union's Total Assets	Quarterly Asset Assessment
over \$500M	\$((8,883 + 0.00001543)) 21,163 + .00001729 x total assets over \$500M	
over \$100M up to \$500M	\$((5,250 + 0.00003408)) 5,883 + .00003819 x total assets over \$100M	

Adopted under notice filed as WSR 08-20-061 on September 24, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 20, 2008.

David A. Lauer
Control Officer

ARTICLE 10

Fees and Charges

ADOPTED: 17-Feb-2005

EFFECTIVE: 9-Apr-2005

Section 1.01 Fees and Charges Required

A. Unless otherwise provided, any fee assessed by the BCAA shall be paid within thirty (30) days of assessment. Failure to pay a fee may result in the commencement of a formal enforcement action.

B. Upon approval by the Board as part of the annual budget process, fees may be increased annually by at least the fiscal growth factor as determined by the Washington State Office of Financial Management.

Section 1.02 Fees Otherwise Provided

All fees and charges provided for in this Article shall be in addition to fees otherwise provided for or required to be paid by Regulation 1, provided the Control Officer shall waive payment of any fee or service charge hereby required if such fee duplicates a fee charged or required to be paid by another Article of Regulation 1.

Section 1.03 Fee Waiver, Indigence

Except for fees required under Section 10.09, the Control Officer shall waive payment of all or a portion of any fee or service charge required by this Article to be paid upon a showing deemed sufficient by the Control Officer that the permit or service requested is necessary and payment of the fee would cause hardship upon the applicant. An applicant may apply for a fee waiver by filing a Fee Waiver due to Indigence Request Form supplied by the BCAA.

Section 1.04 General Administrative Fees

A. Administrative fees shall be due and payable at the time service is rendered, unless otherwise specified by BCAA.

1. A fee of fifteen cents (\$0.15) per page shall be charged for photocopies.

2. A fee of twenty dollars (\$20.00) per hour shall be charged for research time for requests covering more than one-hour of staff time.

3. A fee of ten dollars (\$10.00) shall be charged per copy of audio or video materials.

4. The actual cost of postage or shipping shall be charged for all material requested to be mailed.

B. For other administrative services requested and performed by BCAA staff persons that are not provided to the public generally, the Control Officer shall determine such charge as reasonably reimburses the BCAA for time and materials expended in providing the service.

C. A fifty dollar (\$50.00) fee will be assessed for any check written to the BCAA returned due to non-sufficient funds.

Section 1.05 Registered Source Fees

A. The BCAA shall charge an annual registration fee pursuant to RCW 70.94.151 for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the registration program. The Board shall review the registration program on an annual basis.

B. All air contaminant sources required by Section 9.04 or 9.05 to be registered are subject to the following fees:

1. Class 1 and Class 1 Toxic sources shall pay an annual registration fee of:

a. A base fee of three hundred fifty dollars (\$32500.00);

b. Fifty Ten dollars (\$510.00) per ton of criteria pollutant emitted;

c. One hundred fifty dollars (\$1500.00) per ton or prorated on fraction of a ton of toxic air pollutant emitted; and

d. Fifteen (\$5015.00) dollars per emission process unit or emission point.

2. Class 2 and, Class 2 Toxic, and Synthetic Minor sources shall pay an annual registration fee of:

a. A base fee of seven six hundred fifty dollars (\$75600.00);

b. Fifty dollars (\$50.00) per ton of criteria pollutant emitted;

c. One hundred fifty dollars (\$150.00) per ton or prorated on fraction of a ton of toxic air pollutant emitted; and

b. Ten dollars (\$10.00) per ton of criteria pollutant emitted;

e. One hundred dollars (\$100.00) per ton of toxic air pollutant emitted; and

d. Fifteen (\$15.00) dollars per emission point. Fifty (\$50.00) dollars per emission process unit or emission point

3. Synthetic Minor sources shall pay an annual registration fee of:

a. A base fee of fifteen hundred dollars (\$1500.00);

b. Fifty dollars (\$50.00) per ton of criteria pollutant emitted;

c. One hundred fifty dollars (\$150.00) per ton or prorated on fraction of a ton of toxic air pollutant emitted; and

d. Fifty (\$50.00) dollars per emission process unit or emission point

3.4. Gasoline facilities shall pay an annual registration fee of:

a. Gasoline Loading Terminals: ~~two two thousand dollars (\$24,000.00)~~ plus ~~fifty ten~~ dollars (\$~~540.00~~) per ton of pollutant emitted;

b. Bulk Gasoline Plants: ~~eight four~~ hundred dollars (\$~~8400.00~~) plus ~~fifty ten~~ dollars (\$~~540.00~~) per ton of pollutant emitted; and

c. Gasoline Dispensing Facilities:

i. Fee is determined by multiplying current annual gasoline throughput (greater than 400,000) in gallons times \$0.0005 per gallon.

ii. Fee for stations with annual throughput less than 400,000 gallons shall be two hundred dollars (\$200.00).

i. Throughput of less than five hundred thousand (500,000) gallons/yr, the fee shall be one hundred fifty dollars (\$150.00);

ii. Throughput of five hundred thousand (500,000) gallons/yr, but less than 1.5 million gallons/yr, the fee shall be four hundred fifty dollars (\$450.00); and

iii. Throughput greater than 1.5 million gallons/yr, the fee shall be \$900.00.

d. Once classified, a gasoline dispensing facility shall remain in a higher throughput classification for a period of two (2) consecutive years before reassignment to a lower classification.

C. Fee Payment

1. Fee Payment. The annual registration fee shall be due and payable on February 28 of each year, unless otherwise specified in writing to the source by the BCAA.

2. Late Payment of Fees. A late fee shall be charged to a source for late payment of all or part of its annual registration fee at the following rates:

a. Ten percent (10%) of the annual registration fee for payment received up to the thirtieth (30th) day past the due date;

b. Fifteen percent (15%) of the annual registration fee for payment received between the thirty-first (31st) day and the sixtieth (60th) day past the due date; and

c. Twenty-five percent (25%) of the annual registration fee for payment received between the sixty-first day (61st) and the ninetieth (90th) day past the due date.

d. Failure to pay all or part of an annual registration fee after the ninety-first (91st) day past the due date may result in the commencement of a formal enforcement action.

3. Transfer in Ownership. Transfer in ownership of a source shall not affect that source's obligation to pay registration fees. Any liability for fee payment, including payment of late payment and other penalties shall survive any transfer in ownership of a source.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Benton Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Section 1.06 Fees for Application for Notice of Construction (NOC) and Application for Notice of Intent to Install and Operate a Temporary Source (NIO)

A. NOC or NIO Application Filing Fee. An application filing fee shall be due and payable at the time of filing the NOC or NIO application. The filing fee is non-refundable.

1. Permanent stationary source. The filing fee shall be ~~four one hundred fifty~~ dollars (\$~~41050.00~~)

2. Temporary or portable source. The filing fee shall be ~~five one hundred~~ dollars (\$~~5400.00~~).

3. Relocation of a temporary or portable source. The filing fee shall be two hundred ~~forty~~ dollars (\$~~2500.00~~) and shall be charged each time the source relocates within the boundaries of Benton County.

B. NOC or NIO Engineering Examination and Inspection Fee.

1. An examination and inspection fee shall be charged according to Table 10-1. The engineering and inspection fee shall be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the BCAA.

2. Emergency application or expedited review fee shall be two (2) times the normal application and review fee.

C. Additional Fees

E. Additional fees may be charged according to Table 10-2. Table 10-2 fees are cumulative. The additional fees shall be due and payable at the time of filing the NOC or NIO, unless otherwise specified to the applicant by the BCAA.

1. Fee amounts in Table 10-1 and 10-2 listed as "Actual" are based upon the BCAA's actual cost to complete a review or task and shall be determined using the actual or direct hours expended completing the specific review or task,

~~and the corresponding hourly rate of each BCAA staff person directly involved. If the staff time required to review a permit application exceeds the listed amounts associated with the applicable review fee specified in Table 10-1 and 10-2, the applicant will be invoiced for each additional work hour at the current engineering charge rate in dollars per hour.~~

~~The following provisions shall apply:~~

~~1. Actual hours used in determining the amount of a fee shall be recorded on a daily basis by each BCAA staff person directly involved in completing the specific task;~~

~~2. Time accrued shall be accounted to the nearest fifteen (15) minutes;~~

~~3. Current BCAA staff person salary and overhead rates shall be used when calculating fees; and,~~

~~4. The bill issued for any fee based on the BCAA's actual cost shall indicate the total hours expended and the hourly cost rates that were used to determine the fee.~~

E.2. If an NOC or NIO applicability determination fee is received by the BCAA and an NOC or NIO is determined not to be required, the Engineering Examination and Inspection Fee shall be the actual time expended at the current engineering charge rate in dollars per hour waived.

F. D. Any NOC or NIO application received by the BCAA without the accompanying fee shall be rejected and returned to sender. Such action shall not constitute a determination of completeness or incompleteness as per WAC 173-400-110.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Benton Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Section 1.07 State Environmental Policy Act (SEPA) Fees

A. Where review of an Environmental Impact Statement (EIS), Environmental Checklist, or an addendum to, or adoption of, an existing environmental document pursuant to WAC 197-11 is required, in association with an NOC or a NIO, the applicant shall pay a review fee of the greater of:

1. One-hundred fifty dollars (\$1500.00), due and payable at the time of submittal; or

2. Actual costs to complete the review or task and shall be determined using the actual or direct hours expended completing the specific review and the corresponding hourly rate of each BCAA staff person directly involved. Actual costs shall be billed by the BCAA to the owner, operator, or applicant after a threshold determination has been made and/or a preliminary determination has been issued

B. Additional fees may be charged according to Table 10-2. Table 10-2 fees are cumulative. The additional fees shall be due and payable at the time of filing, unless otherwise specified to the applicant by the BCAA.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Section 1.08 Asbestos Fees

A. Any fee required under Table 10-3 for asbestos projects shall be due and payable at the time of filing, unless otherwise specified to the applicant by the BCAA.

B. Failure to pay all or part of the fee may result in the commencement of a formal enforcement action.

Table 10-1: NOC or NIO Engineering Examination and Inspection Fees

CATEGORY	FEE	CATEGORY	FEE
Fuel Burning Equipment with or without Air Pollution Equipment (million BTU/hr)		Gasoline Dispensing Facilities	
5 or less.....	\$500.200	Stage I.....	\$300
Greater than 5 to 10	\$600.250	Stage II	\$300
Greater than 10 to 30	\$7350	Stage I and II Combined	\$500
Greater than 30 to 50	\$900.450	Toxies review for gasoline facility	\$1,500
Greater than 50 to 100	\$1,200.650	Spray Painting (per booth)	\$300
Greater than 100 to 250	\$2,500 1,400	Dry Cleaner (per machine)	\$300
Greater than 250 to 500	\$4,000 2,500	Coffee Roaster	\$500
Greater than 500	\$6,000 3,500	Asphalt Plant, Cement Plant, or Rock Crushing Plant (Non-Temporary)	\$21,000
Fuel change or new fuel	1/2 new installation fee	Particulate matter and fugitive emissions from rock crushing, material transfer and ship loading (Emissions - tons per year):	
		Less than or equal to 10	\$ 600.00
Process Equipment, Air Pollution Control Device, and/or Uncontrolled Process Discharge (ft³/min)		Greater than 10 to 50	\$1,000.00
50 or less.....	\$6300	Greater than 50 to 100	\$1,500.00
Greater than 50 to 5,000	\$7400	Greater than 100 to 250	\$2,500.00
Greater than 5,000 to 20,000	\$8500	Greater than 250	\$6,000.00
Greater than 20,000 to 50,000	\$9600	Diesel engine generators/pumps (Aggregate horsepower rating):	
Greater than 50,000 to 100,000	\$95700	Less than or equal to 100	\$ 600.00
Greater than 100,000 to 250,000	\$1,000	Greater than 100 to 500	\$700.00
Greater than 250,000 to 500,000	\$2,000	Greater than 500 to 2,000	\$1,000.00
Greater than 500,000	\$4,000	Greater than 2,000 to 5,000	\$1,500.00
Refuse Burning Equip (tons/day)		Greater than 5,000 to 10,000	\$3,000.00
0.5 or less	\$700.1,000	Greater than 10,000	\$6,000.00
<u>Greater than 0.5 to 5</u>	<u>\$800</u>	Soil Thermal Desorption Unit	
Greater than 5 to 12	\$12,000	Initial	\$32,000
Greater than 12 to 250	\$36,000	Relocation of Unit	\$1,0700
Greater than 50 to 250	\$6,000		

CATEGORY	FEE	CATEGORY	FEE
Greater than 250	\$12,000	Odor Source	\$500 <u>350</u>
Other Incinerators (pounds/hr)		Composting Facility	Actual
100 or less.....	<u>\$300</u> + <u>50</u>	Landfill Gas System	Actual
Greater than 100 to 200	\$6300	Soil and Groundwater Remediation	Actual
Greater than 200 to 500	\$1,2600	<u>Review of projects under RCW</u>	
Greater than 500 to 1000	\$24,4200	<u>70.105D.090</u>	Actual
Greater than 1000	\$3,04,500	<u>Review of Ecology "Agreed Orders" and</u>	
Storage Tanks (gal)		<u>"Consent Orders" pursuant to RCW 70.105D-</u>	
10,000 or less	\$6300	<u>090(1)</u>	Actual
Greater than 10,000 to 40,000	\$10500	All other sources not listed.	greater of \$10500 or Actual
Greater than 40,000 <u>to 100,000</u>	\$1,5000		
<u>Greater than 100,000</u>	\$2000		
Gasoline Dispensing Facilities			
<u>Stage I</u>	\$500		
<u>Stage II</u>	\$600		
<u>Stage I and II Combined</u>	\$700		
<u>Toxics review for gasoline facility</u>	\$1,500		
<u>Removal of Stage II</u>	\$600		
Spray Painting (per booth)	\$500		
Dry Cleaner (per machine)	\$600		
Coffee Roaster	\$700		

Table 10-2: Additional Fees

CATEGORY	FEE	CATEGORY	FEE
Public Noticing	Actual	Variance Request	Actual
Publishing of Public Notices	Actual	Alternative Opacity Limits Review	Actual
Public Hearings	Actual	Inspection of Source that began Construction/Operation without Approval/Permit	greater of \$10500 or Actual
Air Toxics Screening as per WAC 173-460			
Review of source supplied ASIL.....	\$300	Synthetic Minor Determination	Actual
Review of source supplied risk analysis...	\$1000	Major Source, Major Modification, or PSD Thresholds	Actual
BCAA conducted screening analysis	Actual	Emission Units <u>Subject to NSPS or NES-HAP (Except residential woodstoves, heaters, woodstoves, heaters, asbestos renovation, or demolition and PCE dry cleaning)</u>	greater of \$1000 or Actual
NOC/NIO Application Assistance	Actual		
NOC/NIO Applicability Determination	Actual		
NOC-CEM or Alternate Monitoring Device Installed	Actual	Construction or Reconstruction of a Major Source of Hazardous Air Pollutants	Actual
SEPA Threshold Determination (lead agency)	Actual	Each CEM or Alternate Monitoring Device	Actual

CATEGORY	FEE	CATEGORY	FEE
Environmental Impact Statement Review	Actual	Each Source Test Required in NOC ..	Actual
NOC Order of Approval Modification lesser of 1/2 NOC/NIO fee or \$greater of \$400 or Actual 350		Opacity/Gain Loading Correlation ..	Actual
RACT/BACT/MACT/BART/LAER Determination	Actual	Bubble Application	Actual
Emission Offset Analysis	Actual	Netting Analysis	Actual
Emission Reduction Credit (ERC) Application	Actual		
Review of Ambient Impact Analysis	<u>Actual</u>		

Table 10-3: Asbestos Fees

Asbestos Projects at Residential Units	
Activity	Fee
Demolition	\$2540.00
Renovation: Any amount in lin. ft or ft ²	\$2540.00
Demolition or Renovation Amendment	\$3025.00
Emergency Renovation Operation	\$650.00
Alternate Removal Methods	Two (2) times renovation fee

Asbestos Projects at Facilities	
Activity	Fee
Demolition	\$2540.00
Renovation: 10 to 259 lin. ft or 48 to 159 ft ²	\$15025.00
260 to 999 lin. ft or 160 to 4,999 ft ²	\$300250.00
1,000 to 9,999 lin. ft or 5,000 to 49,999 ft ²	\$6500.00
Over 10,000 lin. ft or Over 50,000 ft ²	\$1,8500.00
Annual Renovation	\$1,8500.00
Demolition or Renovation Amendment	\$650.00
Emergency Renovation Operation	Two (2) times renovation fee
Alternate Removal Methods	Two (2) times renovation fee

a. Ecology will provide to the BCAA a statement of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before December 31 of each year.

b. The BCAA shall remit to Ecology one-half of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before March 31 of each year and shall remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Benton Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Section 1.10 Special Burning Permit Fees

A. An application fee of fifty dollars (\$7550.00) is due and payable at the time of submittal of a request for special burning permit. The application fee is non-refundable.

B. An additional fee for inspection and oversight costs shall be charged for each submittal of a request for special burning permit. The additional fee shall be calculated based upon the volume of the material to be burned. The additional fee shall not exceed eight dollars and fifty cents (\$8.50) per cubic yard or the adjusted amount according to WAC 173-425.

C. The additional fee shall be due and payable within thirty (30) days of issuance of the special burning permit. Special burning permit fees shall be due within thirty (30) days of issuance of the special burning permit.

D. A late fee of twenty-five dollars (\$25.00) may be charged for special burning permit fees that have not been paid within thirty (30) days of issuance of the special burning permit. Failure to pay said fee within sixty (60) days of the issuance of the special burning permit may result in the commencement of a formal enforcement action.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Benton Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Section 1.11 Agricultural Burning Permit Fees

A. An application fee for an agricultural burning permit shall be due and payable at the time of submittal of the application. Refunds may be issued by the BCAA for acres not burned under each permit provided the adjusted fee after subtracting refunds is no less than twenty-five dollars.

B. Upon approval of any agricultural burning permit application, the BCAA shall charge a fee not to exceed two dollars and fifty cents (\$2.50) per acre for each acre permitted

~~to be burned, at a maximum fee level as set by statute at two dollars and fifty cents per acre (RCW 70.94.650(2)) and as established by the agricultural burning practices and research task force (RCW 70.94.650(4)).~~

A portion of this fee shall go directly to Ecology to be divided among administration, oversight costs, and the research fund. The remainder of the fee shall go to the BCAA for local administration and implementation of the program. The permitting authority may set the fee as an amount per agricultural operation per calendar year, a set amount per fire, or a set rate no greater than one dollar and twenty-five cents per acre burned. The Ecology administration portion of the fee shall be used to off-set the statewide administrative, education, and oversight costs of the department for the agricultural burning program.

The agricultural burning applied research portion of the fee shall be no greater than one dollar per acre burned. The amount assessed may be less than one dollar per acre burned as periodically determined by the agricultural burning practices and research task force based on applied research needs,

Fee Level	Section	Local Administration	Research	Ecology Administration
\$25.00	WAC 173-430-040 (4)(a)(i)	\$12.50	\$12.50	-0-
\$50.00	WAC 173-430-040 (4)(a)(ii)	\$12.50	\$12.50	\$25.00
<u>2008 and beyond - \$2.25 per acre</u>	<u>WAC 173-430-040 (4)(b)(ii)</u>	<u>Up to \$1.25 per acre</u>	<u>50 cents per acre</u>	<u>50 cents per acre</u>

E. The agricultural burning practices and research task force may set acreage equivalents, for non-field style agricultural burning practices, based on the amount of emissions relative to typical field burning emissions. Any acreage equivalents, established by rule, shall be used in determining fees. For agricultural burning conducted by irrigation or drainage districts, each mile of ditch (including banks) burned is calculated on an equivalent acreage basis.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Benton Clean Air Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

regional needs and the research fund budget. The agricultural burning practices and research task force may also establish discounted assessment rates based on the use of best management practices.

C. The local portion of the agricultural burning permit fee shall be ~~seventy-five cents (\$0.75 one dollar and twenty-five cents)~~ per acre (~~\$1.25~~).

D. The minimum permit fee shall be no less than twenty-five dollars (\$25.00).

D. Minimum and variable fee levels are as follows:

1. Twenty-five dollars (\$25.00) per calendar year per agricultural operation based on burning up to ten acres or equivalent;

2. Fifty dollars (\$50.00) for orchard tear-out burning per calendar year per agricultural operation based on burning debris from up to twenty acres or equivalent.

3. The variable fee is two dollars and twenty-five cents per acre (\$2.25).

4. The chart below shows the permit fee break-out per category:

Statutory Authority for Adoption: RCW 46.01.110, 46.20.385, 46.20.391, and 46.20.745.

Adopted under notice filed as WSR 08-21-143 on October 21, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 26, 2008.

Becky Loomis
Assistant Director

Ignition Interlock Driver's License
Chapter 308-107 WAC

NEW SECTION

WAC 308-107-010 Definitions. As used in this chapter, unless the context requires otherwise, the term:

Citation of Existing Rules Affected by this Order: Amending WAC 308-104-100 and 308-104-105.

(1) "Authorized service provider" or "ignition interlock vendor" means a person or company meeting all qualifications set out in chapter 204-50 WAC and approved and trained by a manufacturer to service, install, monitor, calibrate, and provide information on manufacturer's devices currently certified for use in Washington state.

(2) "Breath or blood alcohol concentration (BAC)" means the amount of alcohol in a person's blood or breath determined by chemical analysis, which shall be measured by grams of alcohol per:

- (a) One hundred milliliters of blood; or
- (b) Two hundred ten liters of breath.

(3) "Commission" means the Washington traffic safety commission.

(4) "Device" means an ignition interlock device as defined under RCW 46.04.215 and WAC 204-50-030.

(5) "Department" means the department of licensing.

(6) "Event log report" means a compilation of the data downloaded from a device under the provisions of WAC 204-50-080.

(7) "Functioning device" means a device that is properly installed, maintained, and meets the requirements specified in chapter 204-50 WAC.

(8) "Manufacturer" or "ignition interlock company" means the person, company, or corporation who produces an ignition interlock device, and certifies to the Washington state patrol that an authorized service provider is qualified to service, install, monitor, calibrate, and provide information on devices.

NEW SECTION

WAC 308-107-020 Ignition interlock driver's license—Application. A person applying for an ignition interlock driver's license must meet the requirements of RCW 46.20.385, submit a nonrefundable fee as required by RCW 46.20.380, and submit an application on a form provided by the department.

NEW SECTION

WAC 308-107-030 Functioning device—Satisfactory proof of installation. For purposes of RCW 46.20.385, satisfactory proof of installation of a functioning device must include:

(1) An ignition interlock status verification form submitted by a manufacturer who has entered into an agreement with the department under WAC 308-107-050(2), or by an authorized service provider associated with such manufacturer, indicating that a device has been installed on a vehicle owned or operated by the driver; and

(2) An event log report periodically submitted by the manufacturer to the commission, as provided by WAC 308-107-080, indicating that the device is being maintained under WAC 204-50-080.

NEW SECTION

WAC 308-107-040 Functioning device—Evidence that device is no longer installed or functioning. (1) For purposes of RCW 46.20.311, 46.20.385, and 46.20.740, the

department may determine that a device is no longer installed or functioning in the vehicle(s) driven by a person based on:

(a) An ignition interlock status verification form submitted by a manufacturer, or by an authorized service provider associated with such manufacturer, indicating that a device is no longer installed or functioning;

(b) Notice from the commission that a report received under WAC 308-107-080 indicates that a device is no longer installed or functioning or that the driver has failed to appear for scheduled maintenance;

(c) The termination or expiration without renewal of an agreement entered into between the department and the manufacturer of the device(s) installed in the vehicle(s) driven by the person;

(d) A statement from a law enforcement officer made under RCW 9A.72.085 indicating that a device has been disabled or removed from a motor vehicle operated by the person; or

(e) A conviction under RCW 46.20.740(2) for operating a motor vehicle that is not equipped with a functioning device.

(2) Before making a determination under this section, the department may consider evidence from the person indicating that:

(a) The person is no longer operating the vehicle in which a device is no longer installed or functioning and that another vehicle driven by the person is so equipped; or

(b) The device has been replaced with a functioning device installed by another manufacturer or authorized service provider.

(3) Once the department has determined under this section that a device is no longer installed or functioning, the person must re-establish that a functioning device has been installed before a license may be reinstated or reissued during the remainder of an applicable period of restriction.

NEW SECTION

WAC 308-107-050 Ignition interlock device revolving account. (1) As required under RCW 46.20.385 (6)(a), unless determined by the department to be indigent under WAC 308-107-060, a person who is applying for or has been issued an ignition interlock driver's license must pay an additional fee of twenty dollars per month or partial month for which the ignition interlock driver's license is valid to the manufacturer of the device(s) installed in the motor vehicle(s) driven by the person. Payment may be made directly to the manufacturer, or through the authorized service provider, depending upon the manufacturer's business practices.

(2) A manufacturer providing devices to persons who are applying for or have been issued an ignition interlock driver's license, either directly or through an authorized service provider, must enter into an agreement with the department for the collection and transmittal of the twenty dollar monthly fee required under RCW 46.20.385 (6)(a). Any agreement made under this section must include appropriate reporting requirements and accounting practices to permit the department to audit the handling of the fees that must be remitted to the department. The department may terminate an agreement with a manufacturer upon a showing of good cause. Good

cause shall include, but not be limited to, violation of the agreement, violation of the laws and rules governing the installation of devices, and violation of this chapter. An agreement between the department and a manufacturer will be valid for no more than two years, provided that the department may extend an agreement for up to an additional two years at its discretion.

(3) As provided by RCW 46.20.385 (6)(b), the department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account.

NEW SECTION

WAC 308-107-060 Indigence—Monetary assistance—Determination of need. (1) An applicant for, or holder of, an ignition interlock driver's license may apply to the department for a determination that he or she is indigent for purposes of RCW 46.20.385 and 46.20.745. The department will determine that a person is indigent if the person is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, general assistance, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level.

In making a determination of indigence under this subsection, the department may request that the applicant provide records or other evidence of public assistance, income, payment of taxes, or other relevant issues.

A person who has been determined to be indigent under this subsection is exempt from paying the additional fee of twenty dollars required under RCW 46.20.385 (6)(a), and may apply for monetary assistance under subsection (2) of this section.

(2) Subject to appropriation by the legislature of funds from the ignition interlock device revolving account and the availability of funds in the ignition interlock device revolving account, a person who has been determined to be indigent under this section may apply to the department for monetary assistance in covering the costs of installing, removing, and leasing an ignition interlock device, and any applicable licensing fees.

(3) Subject to funds appropriated, the department may base the amount of monetary assistance provided to an applicant under subsection (2) of this section on a determination of need. Where possible, a determination of need may be based on such factors as:

- (a) Total number of persons in household, including the number of dependants;
- (b) The age of the applicant and whether the applicant is a dependant of another person;
- (c) Monthly expenses; and
- (d) Liquid assets.

(4) A person who has been determined to be indigent under this section must re-apply for a determination of indigence on an annual basis.

NEW SECTION

WAC 308-107-070 Ignition interlock driver's license—Hearing. (1) Upon notification by the department that an ignition interlock driver's license has been denied or cancelled under RCW 46.20.385 the aggrieved person may request a formal hearing to contest the department's decision. No hearing need be granted where the department is prevented from issuing an ignition interlock driver's license by rule or law. A request for a hearing must be submitted in writing.

(2) Upon notification by the department that a determination has been made under WAC 308-107-060 that a person is not indigent, the person may request a formal hearing to contest the department's determination.

(3) Within ten days of receipt of a request for a hearing, the department shall notify the requester in writing of the time and location of the hearing. The hearing may be held either in the person's county of residence or in any county adjoining the person's county of residence, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means.

(4) The hearing shall be conducted by a hearing officer appointed by the director. The director may delegate the authority to render final decisions to the hearing officer.

(5) For a hearing requested under subsection (1) of this section, the scope of the hearing shall be limited to the following issues:

(a) Whether the person had previously been issued a valid license;

(b) Whether the suspension or revocation giving rise to the application for an ignition interlock driver's license is one for which an ignition interlock driver's license may be issued under RCW 46.20.385;

(c) Whether the person has committed an offense of vehicular assault or vehicular homicide within the seven years immediately preceding the conviction or incident for which the ignition interlock driver's license is requested or, if there are multiple suspensions or revocations in effect, within the seven years immediately preceding the latest conviction or incident for which the ignition interlock driver's license is requested;

(d) Whether a device was installed and functioning; and

(e) Whether the person is currently suspended or revoked for any reason for which an ignition interlock driver's license is not available.

(6) The person's official driving record provided to the hearing officer by the department shall be *prima facie* evidence of the issues contained in subsection (5) of this section unless the person presents clear and convincing evidence to the contrary.

(7) For a hearing requested under subsection (2) of this section, the person shall have the burden of proving by a preponderance of the evidence that the department's determination is in error.

(8) In the event that the person fails to appear for the hearing, no hearing shall be held. The case shall be remanded to the department and the department's previous decision denying or cancelling the ignition interlock driver's license, or decision determining that the person is not indigent, shall be affirmed.

NEW SECTION

WAC 308-107-080 Ignition interlock device compliance—Pilot program. (1) As a part of the pilot program established under RCW 46.20.745, an authorized service provider must forward the event log reports for any device maintained under WAC 204-50-080, or a report that the driver failed to appear for the scheduled maintenance, to the manufacturer of the device. The manufacturer of the device must compile the reports received from their authorized service providers in a form specified by the commission and forward the compilation to the commission on a schedule established by the commission.

(2) For the duration of the pilot program, the event log report must include:

- (a) The date, time, BAC of the driver, and success or failure of each attempt to start the vehicle;
- (b) The date, time, BAC of the driver, and success or failure of each random retest;
- (c) All attempts to tamper with the ignition interlock device;
- (d) All attempts to avoid taking a random retest;
- (e) All attempts to circumvent the device;
- (f) If no attempts to tamper or circumvent are detected, a statement that the device has been recalibrated and no violations were found;
- (g) The total number of events recorded by the data recorder since the last service visit;
- (h) The number of vehicle starts; and
- (i) The number of failures to start the vehicle.

AMENDATORY SECTION (Amending WSR 04-18-059, filed 8/27/04, effective 9/27/04)

WAC 308-104-100 Occupational/temporary restricted driver's license—Person eligible. (1) Upon proper application, the department shall issue an occupational/temporary restricted driver's license to any person who has had his or her driver's license suspended or revoked who meets the requirements of RCW 46.20.380 and 46.20.391, provided that ((on the date of conviction for the offense on which the suspension or revocation is based or, if the suspension or revocation is based on an administrative action, on the date the suspension or revocation became effective, or, if there are multiple suspensions or revocations in effect, on the date of conviction for the offense on which the first suspension or revocation is based or on the date the first suspension or revocation based on an administrative action became effective)):

- (a) The person had ((an unexpired)) previously been issued a valid driver's license; and
- (b) ((The person did not have his or her resident driver's license or nonresident driving privilege suspended or revoked for any reason; and
- (e))) The person had not been required to surrender his or her Washington driver's license to the department for failure to maintain proof of financial responsibility for the future.
- (2) ((No person may petition for, and the department shall not issue, an occupational/temporary restricted driver's license that is effective during

(a) The first thirty days of any suspension or denial imposed under RCW 46.20.3101 (2)(a) or (3)(a);

(b) The first ninety days of any revocation or denial imposed under RCW 46.20.3101 (1)(a); or

(c) The first year of any revocation or denial imposed under RCW 46.20.3101 (1)(b), (2)(b), or (3)(b).

(3)) Notwithstanding the provisions of this section, an occupational/temporary restricted driver's license shall not be issued for the operation of a commercial motor vehicle when the commercial driver has had his or her license suspended, revoked, or denied, or has been disqualified from operating a commercial motor vehicle.

AMENDATORY SECTION (Amending WSR 04-18-059, filed 8/27/04, effective 9/27/04)

WAC 308-104-105 Occupational/temporary restricted license denial hearings. (1) Upon notification by the department that an occupational/temporary restricted driver's license has been denied under RCW 46.20.391 the aggrieved person may request a formal hearing to contest the department's decision. No hearing need be granted where the department is prevented from issuing an occupational/temporary restricted driver's license by rule or law. A request for a hearing must be submitted in writing.

(2) Within ten days of receipt of a request for a hearing, the department shall notify the requester in writing of the time and location of the hearing. The hearing may be held either in the person's county of residence or in any county adjoining the person's county of residence, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means.

(3) The hearing shall be conducted by a hearing officer appointed by the director. The director may delegate the authority to render final decisions to the hearing officer.

(4) The scope of the hearing shall be limited to the following issues:

(a) Whether the person had previously been issued a valid license ((on date of conviction or, if the suspension or revocation is based on an administrative action, on the date the suspension or revocation became effective, or, if there are multiple suspensions or revocations in effect, on the date of conviction for the offense on which the first suspension or revocation is based or on the date the first suspension or revocation based on an administrative action became effective)).

(b) Whether the suspension or revocation giving rise to the application for an occupational/temporary restricted driver's license is one for which an occupational/temporary restricted driver's license may be issued under RCW 46.20.-391.

(c) Whether the person has committed an offense of vehicular assault or vehicular homicide within the seven years immediately preceding the conviction or incident for which the occupational/temporary restricted driver's license is requested or, if there are multiple suspensions or revocations in effect, within the seven years immediately preceding the latest conviction or incident for which the occupational/temporary restricted driver's license is requested.

(d) Whether the person is currently suspended or revoked for any reason for which an occupational/temporary restricted driver's license is not available.

(e) Whether it is necessary that the person operate a motor vehicle because he or she:

(i) Is engaged in an occupation or trade that makes it essential that the person operate a motor vehicle. For purposes of this section, occupation or trade means being self-employed, or in the employ of another, for monetary compensation;

(ii) Is undergoing continuing health care or providing continuing care to another who is dependent upon the person;

(iii) Is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion;

(iv) Is undergoing substance abuse treatment or is participating in meetings in a twelve-step group such as Alcoholics Anonymous that requires the person to drive to or from the treatment or meetings;

(v) Is fulfilling court-ordered community service responsibilities;

(vi) Is in a program that assists persons who are enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to become gainfully employed and the program requires a driver's license;

(vii) Is in an apprenticeship, on-the-job training, or welfare-to-work program; or

(viii) Presents evidence that he or she has applied for a position in an apprenticeship or on-the-job training program for which a driver's license is required to begin the program.

(5) The person's official driving record provided to the hearing officer by the department shall be prima facie evidence of the issues contained in subsection (4)(a) through (d) of this section unless the person presents clear and convincing evidence to the contrary.

(6) The person shall have the burden of proving that he or she meets one or more of the qualifying circumstances described in subsection (4)(e) of this section that makes it essential to operate a motor vehicle.

(7) In the event that the person fails to appear for the hearing, no hearing shall be held. The case shall be remanded to the department and the department's previous decision denying the occupational/temporary restricted driver's license shall be affirmed.

WSR 08-24-068
PERMANENT RULES
INDETERMINATE SENTENCE
REVIEW BOARD

[Filed December 1, 2008, 9:15 a.m., effective January 1, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend the existing indeterminate sentence review board victims' rights WAC in accordance with RCW 9.9.420(4) [9.95.420(4)].

Citation of Existing Rules Affected by this Order: Amending WAC 381-10-170 Victim's rights.

Statutory Authority for Adoption: RCW 34.05.220 (1)(b), 42.17.250.

Adopted under notice filed as WSR 08-17-095 on August 20, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 1, 2008.

Ellen Hanegan-Crusse
 Victim Liaison

AMENDATORY SECTION (Amending WSR 98-19-054, filed 9/15/98, effective 10/16/98)

WAC 381-10-170 Victim's rights. ((This rule is provided to ensure the orderly presentation of victim statements so that victims or their representatives may freely exercise their constitutional rights.)

(1) Written statements. Consistent with prior board practices, the board will continue to encourage victims or their representatives to submit written statements to the board. Prior notification is not required for the submission of written statements.

(2) In person statements. Upon notification either through the prosecuting attorney to the board, or directly to the board that an in person statement is requested by the victims or their representatives, such person shall be invited to make an in person statement to the board as a whole at a regularly scheduled board meeting, or through a meeting with the chair prior to a final decision allowing an offender to be released on parole.

(3) Other statements. The board also encourages victims or their representatives to submit audio cassette or video (VHS) tape statements. The statement will be presented at a regularly scheduled meeting before the offender's final parole release decision is made.))

Policy statement

The indeterminate sentence review board (ISRB or board) recognizes the rights afforded victims and survivors in the Washington state Constitution (Article I, Section 35). Among these rights is the right to give statements at hearings where an offender's release is considered. The ISRB is committed to protecting this right by providing:

- Accurate information.
- Timely notification.
- A process for receiving input.

Assistance to victims and survivors

The ISRB victim liaison will help victims and survivors of crimes committed by persons under the authority of the board. The victim liaison may provide:

- Notification of upcoming release hearings.
- Assistance preparing statements to the board.
- Assistance scheduling in-person or telephonic statements to the board.
- Notification of the final release decision made by the board.

Statement format

The ISRB will accept statements from victims or survivors before the inmate's hearing. Statements may be given:

- In person to the entire board or a majority of its members at a board meeting. If there are a number of victims or survivors at a meeting and not enough time for each to speak, the board may ask a representative or representatives to speak on behalf of the others.

• In person, made at the inmate's release hearing within the institution.

- Telephonically with board members.
- Written format.
- Electronically (i.e., via e-mail, videotape, CD or other electronic means).
- Via videoconference (if available).

In cases where statements will be given in a language other than English, the board will arrange and bear the cost for interpreter services (including American sign language). The board must know which language will be used well in advance of any in-person meetings. Written statements must identify what language was used.

Statement content

Statements may include, but are not limited to:

- Information regarding the impact of the crime upon the victim, survivor or family.
- The physical, emotional, psychological, financial, employment, relational and social impacts of the crime, as well as long-term prognosis of victims and survivors.
- Opinions regarding release decisions.
- Requests that certain conditions be placed upon offenders when released onto community supervision.
- In life photographs, or videotapes of deceased victims.
- Descriptions of the actual offense, history of the relationship between the victim and offender, and other information concerning the offender's personality that will assist the board to make an informed decision.

Limited confidentiality

When the ISRB receives statements or communications from victims, survivors or concerned community members the ISRB shall provide the statements or summaries to inmates and/or their attorneys in accordance with court decisions.

Accommodations

When requested, the ISRB may make reasonable accommodations to help individuals give statements to the ISRB. These accommodations can include, but are not limited to:

- Interpreter services (pursuant to chapters 2.42 and 2.43 RCW).
- TTY or other voice or hearing assistance devices.
- Age-appropriate assistance for child victims or survivors.
- The presence of supportive persons or victim advocates.
- Board member travel to a location of mutual agreement.

WSR 08-24-069

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed December 1, 2008, 9:51 a.m., effective January 1, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending rules in chapter 388-515 WAC, Alternate living—Institutional medical, to incorporate the \$20 disregard and increase the personal needs allowance (PNA) from \$41.44 to \$62.79 to match home and community services categorically needy (CN) waiver programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-515-1512 and 388-515-1514.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.575, 74.09.500, 74.09.530.

Adopted under notice filed as WSR 08-21-145 on October 21, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: November 25 [26], 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-11-083, filed 5/20/08, effective 6/20/08)

WAC 388-515-1512 What are the financial requirements if I am eligible for Medicaid under the noninstitutional categorically needy program (CN-P). (1) You automatically meet income and resource eligibility for DDD waiver services if you are eligible for Medicaid under a categorically needy program (CN-P) under one of the following programs:

(a) Supplemental Security Income (SSI) eligibility described in WAC 388-474-0001. This includes SSI clients under 1619B status. These clients have Medicaid eligibility determined and maintained by the Social Security Administration;

(b) Healthcare for workers with disabilities (HWD) described in WAC 388-475-1000 through 388-475-1250;

(c) SSI-related CN-P Medicaid described in WAC 388-475-0100 (2)(a) and (b) or meets the requirements in WAC 388-475-0880 and is CN-P eligible after the income disregards have been applied;

(d) CN-P Medicaid for a child as described in WAC 388-505-0210 (1), (2), (7) or (8); or

(e) General assistance expedited Medicaid disability (GA-X) or general assistance based on aged/blind/disabled criteria described in WAC 388-505-0110(6).

(2) If you are eligible for a CN-P Medicaid program listed in subsection (1) above, you do not have to pay (participate) toward the cost of your personal care and/or habilitation services.

(3) If you are eligible for a CN-P Medicaid program listed in subsection (1) above, you do not need to meet the initial eligibility income test of gross income at or below the special income level (SIL), which is three hundred percent of the federal benefit rate (FBR).

(4) If you are eligible for a CN-P Medicaid program listed in subsection (1), you pay up to the ADSA room and board standard described in WAC 388-515-1505. Room and board and long-term care standards are located at <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(a) If you live in an ARC, AFH or DDD group home, you keep a personal needs allowance (PNA) and use your income to pay up to the ADSA room and board standard. (~~The PNA from July 1, 2007 through June 30, 2008 is forty dollars and twelve cents.~~) Effective (~~July~~) January 1, ((2008)) 2009 the PNA (~~increases to forty-one dollars and forty-four~~) is sixty-two dollars and seventy-nine cents.

((b) If you receive non SSI income, you may keep up to ~~an additional twenty dollars.~~))

(5) If you are eligible for a premium based Medicaid program such as healthcare for workers with disabilities (HWD), you must continue to pay the Medicaid premium to remain eligible for that CN-P program.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 08-11-083, filed 5/20/08, effective 6/20/08)

WAC 388-515-1514 How does the department determine how much of my income I must pay towards the cost of my care if I am not eligible for Medicaid under a categorically needy program (CN-P) listed in WAC 388-515-1512(1)? If you are not eligible for Medicaid under a categorically needy program (CN-P) listed in WAC 388-515-1512 (1), the department determines how much you must pay based upon the following:

(1) If you are an SSI-related client living at home as defined in WAC 388-106-0010, you keep all your income up to the SIL (three hundred percent of the FBR) for your personal needs allowance (PNA).

(2) If you are an SSI-related client and you live in an ARC, AFH or DDD group home, you:

(a) Keep a personal needs allowance (PNA) from your gross nonexcluded income. (~~The PNA from July 1, 2007 through June 30, 2008 is forty dollars and twelve cents.~~) Effective (~~July~~) January 1, ((2008)) 2009 the PNA (~~increases to forty-one dollars and forty-four cents~~).

~~((e))) (b) May keep up to an additional twenty dollars from your nonSSI income~~ is sixty-two dollars and seventy-nine cents; and

((e))) (b) Pay for your room and board up to the ADSA room and board rate described in <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>.

(3) Income that remains after the allocation described in (2) above, is reduced by allowable deductions in the following order:

(a) If you are working, we allow an earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;

(b) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed by chapter 388-79 WAC;

(c) Current or back child support garnished from your income or withheld according to a child support order in the month of the garnishment if it is for the current month. If we allow this as deduction from your income, we will not count it as your child's income when determining the family allocation amount;

(d) A monthly maintenance needs allowance for your community spouse not to exceed that in WAC 388-513-1380 (5)(b) unless a greater amount is allocated as described in subsection (e) of this section. This amount:

(i) Is allowed only to the extent that your income is made available to your community spouse; and

(ii) Consists of a combined total of both:

(A) One hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>); and

(B) Excess shelter expenses. For the purposes of this section, excess shelter expenses are the actual required maintenance expenses for your community spouse's principal residence. These expenses are determined in the following manner:

(I) Rent, including space rent for mobile homes, plus;

(II) Mortgage, plus;

(III) Taxes and insurance, plus;

(IV) Any required payments for maintenance care for a condominium or cooperative minus;

(V) The food assistance standard utility allowance (for long term care services this is set at the standard utility allowance (SUA) for a four-person household), provided the utilities are not included in the maintenance charges for a condominium or cooperative, minus;

(VI) The standard shelter allocation. This standard is based on thirty percent of one hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty>); and

(VII) Is reduced by your community spouse's gross countable income.

(iii) May be greater than the amount in subsection (d)(ii) only when:

(A) There is a court order approving a higher amount for the support of your community spouse; or

(B) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(e) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of your community or institutionalized spouse. The amount we allow is based on the living arrangement of the dependent. If the dependent:

(i) Resides with your community spouse, the amount is equal to one-third of the community spouse allocation as described in WAC 388-513-1380 (5)(b)(i)(A) that exceeds the dependent family member's income (child support received from a noncustodial parent is considered the child's income);

(ii) Does not reside with the community spouse, the amount is equal to the MNIL based on the number of dependent family members in the home less their separate income (child support received from a noncustodial parent is considered the child's income).

(f) Your unpaid medical expenses which have not been used to reduce excess resources. Allowable medical expenses are described in WAC 388-513-1350.

(g) The total of the following deductions cannot exceed the SIL (three hundred percent of the FBR):

(i) Personal needs allowances in subsection (1) for in home or subsection (2)(a) in a residential setting; and

(ii) Earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income in subsection (3)(a); and

(iii) Guardianship fees and administrative costs in subsection (3)(b).

(4) If you are eligible for general assistance expedited Medicaid disability (GA-X) or general assistance based on aged/blind/disabled criteria described in WAC 388-505-0110 (6), you do not participate in the cost of personal care and you may keep the following:

(a) When you live at home, you keep the cash grant amount authorized under the general assistance program;

(b) When you live in an AFH, you keep a PNA of thirty-eight dollars and eighty-four cents, and pay any remaining income and general assistance grant to the facility for the cost of room and board up to the ADSA room and board standard

described in <http://www1.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml>; or

(c) When you live in an ARC or DDD group home, you are only eligible to receive a cash grant of thirty-eight dollars and eighty-four cents which you keep for your PNA.

(5) The combination of the room and board amount and the cost of personal care and/or habilitation services (participation) after all allowable deductions have been considered is called your total responsibility. You pay this amount to the ARC, AFH or DDD group home provider.

WSR 08-24-070

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed December 1, 2008, 9:54 a.m., effective January 1, 2009]

Effective Date of Rule: January 1, 2009.

Purpose: The department is amending WAC 388-478-0015 Need standards for cash assistance, in order to revise basic need standards for cash assistance based on the 2009 forecast. RCW 74.04.770 requires the department of social and health services to annually establish consolidated standards of need.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0015.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, and 74.08.090.

Adopted under notice filed as WSR 08-20-081 on September 29, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 24, 2008.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-24-033, filed 11/30/07, effective 12/31/07)

WAC 388-478-0015 Need standards for cash assistance. The need standards for cash assistance units are:

(1) For assistance units with obligation to pay shelter costs:

Assistance Unit Size	Need Standard
1	\$((1,060)) <u>1,131</u>
2	((1,341)) <u>1,431</u>
3	((1,655)) <u>1,767</u>
4	((1,953)) <u>2,085</u>
5	((2,254)) <u>2,403</u>
6	((2,549)) <u>2,721</u>
7	((2,947)) <u>3,145</u>
8	((3,261)) <u>3,480</u>
9	((3,576)) <u>3,816</u>
10 or more	((3,890)) <u>4,152</u>

(2) For assistance units with shelter provided at no cost:

Assistance Unit Size	Need Standard
1	\$((566)) <u>600</u>
2	((717)) <u>759</u>
3	((885)) <u>937</u>
4	((1,044)) <u>1,106</u>
5	((1,203)) <u>1,275</u>
6	((1,362)) <u>1,444</u>
7	((1,575)) <u>1,669</u>
8	((1,743)) <u>1,847</u>
9	((1,911)) <u>2,025</u>
10 or more	((2,079)) <u>2,203</u>

What are the standards for new construction?, 296-104-302 Installation—What controls and limit devices are required on automatically fired boilers after December 1998?, 296-104-502 Repairs—What are the requirements for nonnuclear boiler and unfired pressure vessel repairs and alterations?, and 296-104-520 Repairs—What are the requirements for repair of nonnuclear safety valves?

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040, 70.79.150, 70.79.290, 70.79.330, and 70.79.350.

Adopted under notice filed as WSR 08-20-107 on September 30, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 7, Repealed 0.

Date Adopted: December 1, 2008.

Steven E. Bacon, Chair
Board of Boiler Rules

WSR 08-24-072
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 1, 2008, 11:08 a.m., effective January 1, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule making is to make clarification and technical changes to the Board of boiler rules—Substantive (chapter 296-104 WAC) based on actions and requests of the board of boiler rules. The changes include:

- Clarify insurance inspector's responsibilities; due to restructuring and procedure changes by the major insurance companies.
- Adopt current editions of inspection codes.
- Adopt nationally recognized fuel train standards.
- Clarify administrative codes for repair standards to conform with the format used for construction and inspection.
- Update references throughout the rule.

Citation of Existing Rules Affected by this Order:
Amending WAC 296-104-045 Administration—What are the insurance companies' responsibilities?, 296-104-102 Inspection—What are the standards for in-service inspections?, 296-104-105 Inspection—How much time is required for notification of inspection?, 296-104-200 Construction—

AMENDATORY SECTION (Amending WSR 01-24-061, filed 11/30/01, effective 12/31/01)

WAC 296-104-045 Administration—What are the insurance companies' responsibilities? All insurance companies shall notify the chief inspector within thirty days of all boiler and/or unfired pressure vessel risks written, canceled, not renewed or suspended ((because of unsafe conditions)). Special inspectors shall perform all in-service inspections of boilers and unfired pressure vessels insured by their employer. ((After a repair or alteration the in-service inspector is responsible to assure that proper documentation is completed and submitted to the department in accordance with the rules of the National Board Inspection Code (NBIC) as adopted in WAC 296-104-102.))

AMENDATORY SECTION (Amending WSR 05-22-092, filed 11/1/05, effective 1/1/06)

WAC 296-104-102 Inspection—What are the standards for in-service inspection? Where a conflict exists between the requirements of the standards listed below and this chapter, this chapter shall prevail. The duties of the in-service inspector do not include the installation's compliance with other standards and requirements (environmental, construction, electrical, undefined industrial standards, etc.), for which other regulatory agencies have authority and responsibility to oversee.

(1) The standard for inspection of nonnuclear boilers, unfired pressure vessels, and safety devices is the National Board Inspection Code (NBIC), ((2004)) 2007 edition Part 2, with addenda, excluding Section 6 Supplements 2, 5, 6, and 7 which may be used as nonmandatory guidelines. This code may be used on or after the date of issue and becomes mandatory twelve months after adoption by the board as specified in RCW 70.79.050(2).

(2) The standard for inspection of historical steam boilers of riveted construction preserved, restored, or maintained for hobby or demonstration use, shall be Appendix "C" of the National Board Inspection Code ((as referenced in subsection (1) of this section)) (NBIC) 2004 edition with 2006 addenda.

(3) The standard for inspection of nuclear items is ASME section XI. The applicable ASME Code edition and addenda shall be as specified in the owner in-service inspection program plan.

(4) Where a petroleum or chemical process industry owner/user inspection agency so chooses, the standard for inspection of unfired pressure vessels used by the owner shall be the API-510 Pressure Vessel Inspection Code, ((eighth)) ninth edition, with addenda. This code may be used on or after the date of issue.

(5) TAPPI TIP 0402-16, dated ((2004)) 2006 may be used for both pulp dryers and paper machine dryers when requested by the owner. When requested by the owner, this document becomes a requirement and not a guideline.

AMENDATORY SECTION (Amending WSR 99-22-026, filed 10/26/99, effective 11/26/99)

WAC 296-104-105 Inspection—How much time is required for notification of an internal inspection? Seven days will be considered sufficient notification. The owner or user shall prepare each boiler and unfired pressure vessel for internal inspection and shall prepare for and apply a hydrostatic pressure test whenever necessary on the date specified by the inspector.

AMENDATORY SECTION (Amending WSR 08-12-015, filed 5/27/08, effective 6/30/08)

WAC 296-104-200 Construction—What are the standards for new construction? The standards for new construction are:

(1) ASME Boiler and Pressure Vessel Code, 2007 edition, with addenda Sections I, III, IV, VIII, Division 1, 2, 3, X, XII;

(2) ASME PVHO-1 2007 Safety Standard for Pressure Vessels for Human Occupancy; and

(3) ASME CSD-1 Part CF 2004 edition with addenda ((as referenced in WAC 296-104-302)); and

(4) NFPA 85 Boiler and Combustion Systems Hazards Code 2004 edition (for use with boilers with fuel input ratings of 12,500,000 BTU/hr) or greater; and

(5) Standards of construction approved by the chief inspector and meeting the National Board Criteria for Registration of Boilers, Pressure Vessels and Other Pressure Retaining Items.

These codes and standards may be used on or after the date of issue and become mandatory twelve months after

adoption by the board as specified in RCW 70.79.050(2). ASME Code Cases may be approved for use when accepted by the chief inspector. The board recognizes that the ASME Code states that new editions of the code become mandatory on issue and that subsequent addenda become mandatory six months after the date of issue. For nuclear systems, components and parts the time period for addenda becoming mandatory is defined in the Code of Federal Regulations.

AMENDATORY SECTION (Amending WSR 05-22-092, filed 11/1/05, effective 1/1/06)

WAC 296-104-302 Installation—What fuel controls ((and limit devices)) are required on automatically fired boilers after December 1998? In addition to those requirements listed in WAC 296-104-301, the following are also required with regard to installations or refits of gas, oil, or combinations of gas or oil:

(1) All boilers installed or refitted after December 1998, ((with fuel input ratings of less than 12,500,000 BTU/hr which are fired by gas, oil, or a combination of gas or oil shall comply with the fuel train requirements defined in ASME CSD-1 (CF), as adopted in WAC 296-104-200 where applicable)) shall be equipped with suitable primary (flame safeguards) safety controls, safety limit switches, and burners or electrical elements as required by a nationally or internationally recognized standard.

(2) ((Verification of fuel train compliance will be per CSD-1. A CSD-1 report will be completed and signed by an authorized representative of the manufacturer and/or the installing contractor.

(3) The CSD-1 report must be made available to the authorized inspection agency or the inspector after which a certificate of operation may be issued. The report shall remain in the possession of the boiler owner.) The symbol of the certifying organization that has investigated such equipment as having complied with a nationally or internationally recognized standard shall be affixed to the equipment and shall be considered evidence that the unit was manufactured in accordance with that standard. A certifying organization is one that provides uniform testing, examination, and listing procedures under established, nationally or internationally recognized standards, and that is acceptable to the authorities having jurisdiction.

(3) These devices shall be installed in accordance with jurisdictional requirements, manufacturer's recommendations, and/or industry standards as applicable.

AMENDATORY SECTION (Amending WSR 06-24-042, filed 11/30/06, effective 1/1/07)

WAC 296-104-502 Repairs—What ((are the requirements)) is the standard for nonnuclear ((boilers and unfired pressure vessel)) repairs and alterations? ((Repairs and alterations to nonnuclear boilers and pressure vessels shall be made in accordance with the rules of the National Board Inspection Code (NBIC) as adopted in WAC 296-104-102. Additionally, repairs and alterations to non-standard boilers and pressure vessels, as addressed in WAC 296-104-215, must be authorized by the chief inspector.

~~Repairs and alterations may be made by an organization in possession of a valid Certificate of Authorization for use of the "R" symbol stamp, issued by the national board provided such repairs/alterations are within the scope of the authorization.~~

~~Owner/user special inspectors may only accept repairs and alterations to boilers and unfired pressure vessels operated by their respective companies per RCW 70.79.130.~~

~~Documentation of repairs and alterations, in accordance with the requirements of the National Board Inspection Code (NBIC) as adopted in WAC 296-104-102, shall be submitted to the department.) The standard for repairs/alterations is:~~

(1) National Board Inspection Code (NBIC), 2007 edition Part 3, with addenda, excluding Section 6 Supplements 2, 5, 6, and 7 which may be used as nonmandatory guidelines.

(2) The standard for repair of historical boilers or riveted construction preserved, restored, or maintained for hobby or demonstration use, shall be Appendix C of the National Board Inspection Code (NBIC) 2004 edition with 2006 addenda.

NEW SECTION

WAC 296-104-503 Repairs—What are the requirements for nonnuclear boilers and unfired pressure vessel repairs and alterations? Repairs and alterations to nonnuclear boilers and pressure vessels shall be made in accordance with the rules of the National Board Inspection Code (NBIC) as adopted in WAC 296-104-502(1). Additionally, repairs and alterations to nonstandard boilers and pressure vessels, as addressed in WAC 296-104-215, must be authorized by the chief inspector.

Repairs and alterations may be made by an organization in possession of a valid Certificate of Authorization for use of the "R" symbol stamp, issued by the national board provided such repairs/alterations are within the scope of authorization.

Owner/user special inspectors may only accept repairs and alterations to boilers and unfired pressure vessels operated by their respective companies per RCW 70.79.130.

Documentation of repairs and alterations, in accordance with the requirements of the National Board Inspection Code (NBIC) as adopted in WAC 296-104-502(1), shall be submitted to the department.

AMENDATORY SECTION (Amending WSR 06-24-042, filed 11/30/06, effective 1/1/07)

WAC 296-104-520 Repairs—What are the requirements for repair of nonnuclear safety devices? (1) The resetting, repairing, and restamping of safety valves and relief valves shall be done by a qualified valve repair organization holding a valid "VR" Certificate of Authorization issued by the National Board of Boiler and Pressure Vessel Inspectors. ASME valve manufacturers holding a valid "V," "HV," and "UV" Certificate(s) of Authorization may also do this work provided they also have a valid "VR" Certificate of Authorization issued by the national board.

(2) With jurisdictional approval, boiler and pressure vessel owners/users, may authorize external adjustments to bring their installed safety valves and relief valves, back to the stamped set pressure when performed by the owner/user's

trained, qualified, regular, and full-time employees. Refer to ((Appendix "J")) Supplement 7.10 of the National Board Inspection Code as referenced in WAC ((296-104-102)) 296-104-502(1) for guidelines regarding training, documentation, and the implementation of a quality system for the owner/user employees. All such external adjustments shall be resealed with a metal tag showing the identification of the organization making the adjustments and the date. If any valve repairs are required, they shall be done by a qualified "VR" certificate holder.

(3) Repairing of noncode relief or safety valves shall not be allowed, except as specified below. Noncode liquid relief valves installed prior to 1-1-85 shall be repaired by an organization holding a valid "VR" Certificate of Authorization, but need not be stamped.

WSR 08-24-073

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 1, 2008, 11:23 a.m., effective January 1, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Washington state department of agriculture is adopting, in accordance with RCW 15.36.021, the 2007 revision of the Grade A pasteurized milk ordinance (PMO), the 2007 revision of the methods of making sanitation ratings of milk shippers, the 2007 revision of the procedures governing the cooperative state conference on interstate milk shippers, and the 2005 revision of the evaluation of milk laboratories. Adoption of the latest revisions will ensure that milk and milk products produced in this state meet the latest standards and will assist in continued acceptance of Washington state milk and milk products shipped to other states.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-101-700, 16-101-705, 16-101-711 and 16-101-990; and amending WAC 16-101-716, 16-101-721, and 16-101-726.

Statutory Authority for Adoption: RCW 15.36.21 [15.36.021].

Other Authority: Chapter 15.36 RCW.

Adopted under notice filed as WSR 08-20-093 on September 29, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 3, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 3, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 3, Repealed 4.

Date Adopted: December 1, 2008.

Robert W. Gore
Director

Chapter 16-101 WAC

WASHINGTON STATE MILK AND MILK PRODUCTS STANDARDS

NEW SECTION

WAC 16-101-701 Standards for the production of milk and milk products. (1) With the exception of the portions identified in subsection (2) of this section, the department adopts the Grade "A" Pasteurized Milk Ordinance, 2007 Revision, United States Public Health Service/Food and Drug Administration, as additional Washington state standards for the production of milk and milk products including Grade A condensed and dry milk products and condensed and dry whey products under chapter 15.36 RCW.

(2) The department does not adopt the following portions of the Grade "A" Pasteurized Milk Ordinance, 2007 Revision:

(a) Grade "A" Pasteurized Milk Ordinance - 2007 Revision.

PMO Page No.	Excepted Portion
Pages 11-12	<ul style="list-style-type: none"> Section 3, Permits, paragraph 4, which begins with "The regulatory agency shall suspend..." Section 3, Permits, paragraph 5, which begins with "Upon notification..."
Page 28	<p>Section of Table 1 entitled "GRADE "A" RAW MILK AND MILK PRODUCTS FOR PASTEURIZATION, ULTRA-PASTEURIZATION OR ASEPTIC PROCESSING"</p> <ul style="list-style-type: none"> "Temperature: Cooled to 10°C (50°F) or less within four (4) hours or less of the commencement of the first milking and to 7°C (45°F) or less within two hours after the completion of milking. Provided that the blend temperature after the first milking and subsequent milkings does not exceed 10°C (50°F)." Note: Milk sample submitted for testing cooled and maintained at 0°C (32°F) to 4.4°C (40°F), but <7.0°C (45°F) and less than three (3) hours after collection has not increased in temperature;

PMO Page No.	Excepted Portion
	<ul style="list-style-type: none"> Under Bacterial Limits, only the sentence..."Individual producer milk not to exceed 100,000 per mL prior to commingling with other producer milk."

(b) Standards for Grade "A" Raw Milk for Pasteurization, Ultra-pasteurization or Aseptic Processing.

PMO Page No.	Excepted Portion
Page 51	Item 18r. "Raw Milk Cooling" paragraph 1, which begins with "Raw milk for pasteurization shall be cooled..."
Pages 51-52	Item 18r. "Administrative Procedures", paragraph 1 only

(c) Standards for Grade "A" Pasteurized, Ultra-pasteurized and Aseptically Processed Milk and Milk Products.

PMO Page No.	Excepted Portion
Page 111	Item 18p. "Bottling, Packaging and Container Filling", under Public Health Reason, first sentence only which begins with "Manual bottling, packaging, and container filling..."
Page 111	Item 18p. "Administrative Procedures", item number 2 only.
Page 113	Item 19p. "Capping, container closure and sealing and Dry Milk Product Storage", Administrative Procedures, item number 1 only.
Page 125	Sections 15 (Enforcement), 16 (Penalty), and 17 (Repeal and Date of Effect)

(d) Appendix E: Examples of 3-out-of-5 Compliance Enforcement Procedures.

PMO Page No.	Excepted Portion
Pages 198-199	All of Appendix E

AMENDATORY SECTION (Amending WSR 00-21-012, filed 10/6/00, effective 11/6/00)

WAC 16-101-716 ((Adoption of the Procedures Governing the Cooperative State Public Health Service/Food and Drug Administration Program)) Procedures for certification of interstate milk shippers. The department adopts the Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program ((for Certification of Interstate Milk Shippers 1999)) of the National Conference on Interstate Milk Shipments 2007 Revision ((is adopted by reference)) as Washington state procedures ((covering)) for the certification of interstate milk shippers.

AMENDATORY SECTION (Amending WSR 00-21-012, filed 10/6/00, effective 11/6/00)

WAC 16-101-721 ((Adoption of) Methods ((of Making Sanitation Ratings)) for making sanitation ratings of milk ((Supplies)) shippers. The department adopts the Methods of Making Sanitation Ratings of Milk ((Supplies +1999)) Shippers 2007 Revision, United States Health and Human Services Public Health Service/Food and Drug Administration ((is adopted by reference)) as Washington state methods for ratings of interstate milk ((supplies)) shippers.

AMENDATORY SECTION (Amending WSR 96-22-059, filed 11/4/96, effective 12/5/96)

WAC 16-101-726 ((Adoption of Evaluation of) Standard for the accrediting of milk laboratories. The department adopts the Evaluation of Milk Laboratories ((+1995)) 2005 Revision United States Health and Human Services Public Health Service/Food and Drug Administration ((is adopted by reference)) as the Washington state standard for ((accreditation of)) accrediting milk laboratories and certified industry supervisors ((requesting)) who request certification and approval for uniform collection and testing required for compliance with the Grade "A" Pasteurized Milk Ordinance.

NEW SECTION

WAC 16-101-731 Availability of the publications adopted by the department in this chapter. (1) The Grade "A" Pasteurized Milk Ordinance, 2007 Revision, United States Public Health Service/Food and Drug Administration, can be purchased from the Superintendent of Documents, U.S. Printing Office, Washington, D.C.

(2) The following publications can be obtained by writing the Center for Food Safety and Applied Nutrition, Director, Office of Constituent Operations, Industry Activities Staff, HFS-S65 200 "C" Street, S.W., Washington, D.C. 20204:

- The Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 2007 Revision.

- The Methods of Making Sanitation Ratings of Milk Shippers, 2007 Revision, United States Department of Health and Human Services Public Health Services/Food and Drug Administration.

- The Evaluation of Milk Laboratories, 2005 Revision, United States Department of Health and Human Services Public Health Service/Food and Drug Administration.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-101-700

Adoption of the pasteurized milk ordinance as the standard for production of milk and milk products.

WAC 16-101-705

Adoption of the dry milk ordinance as the standard for production of condensed and dry milk products and condensed and dry whey.

WAC 16-101-711

Adoption of the standards for the fabrication of single-service containers and closures for milk and milk products.

WAC 16-101-990

Where can publications adopted by WSDA under this chapter be obtained?

WSR 08-24-074

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed December 1, 2008, 11:28 a.m., effective January 1, 2009]

Effective Date of Rule: January 1, 2009.

Purpose: This rule will amend the tables of classification base premium rates, experience rating plan parameters, experience modification factor calculation limitations and retrospective rating plan size groupings for the workers' compensation insurance program for calendar year 2009. Classification base rates were amended in order to base the rates on updated loss and payroll experience and the proposed decision to increase premium rates an overall average 3.0% per hour worked. In addition, the experience modification factor limitation rule is being changed so that the exceptions to the 25% limitation on annual changes to the factor have been reduced from two cases to one; the exception for increasing the factor to 1.00 has been removed. Both of these changes to experience rating will result in more stable rates to individual firms from year to year. The maximum claim value, which is the limitation on amounts charged employers for large single claim costs, has been reduced from \$502,800 to \$217,944 which is the same as the average value charged all fatality claims.

Citation of Existing Rules Affected by this Order: WAC 296-17-855 Experience modification, 296-17-865 Experience modification limitations, 296-17-870 Evaluation of actual losses, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III, 296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications, 296-17-89504 Horse racing industry industrial insurance, medical aid, and supplemental pension by class, 296-17-90492 Table I (Retro), and 296-17-920 Assessment for supplemental pension fund.

Statutory Authority for Adoption: RCW 51.16.035 Base rates, 51.32.073 Supplemental pension, 51.08.010 Retrospective rating, and 51.04.020(1) General authority.

Adopted under notice filed as WSR 08-19-115 on September 17, 2008.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-17-865 was amended. New language was removed so that we may retain the current rule that allows us to apply the limitation rule to mid-year business adjustments.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 12, Repealed 0.

Date Adopted: December 1, 2008.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-855 Experience modification. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\text{EXPERIENCE MODIFICATION FACTOR} = \frac{\text{(Credible Actual Primary Loss + Credible Actual Excess Loss)/Expected Loss}}{\text{Total Loss}}$$

Where

$$\begin{aligned} \text{Credible Actual Primary Loss} &= \text{Actual Primary Loss} \times \text{Primary Credibility} \\ &+ \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility}) \end{aligned}$$

$$\begin{aligned} \text{Credible Actual Excess Loss} &= \text{Actual Excess Loss} \times \text{Excess Credibility} \\ &+ \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility}) \end{aligned}$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For

each claim in excess of \$20,112 the actual primary loss shall be determined from the formula:

$$\text{ACTUAL PRIMARY LOSS} = \frac{50,280}{(\text{Total loss} + 30,168)} \times \text{total loss}$$

For each claim, less than \$20,112 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have less credibility in predicting future experience. The excess actual loss for each claim shall be determined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of \$((+640)) 1,790 or the total cost of the claim. Here are some examples for these claims:

Total Loss	(after deduction)	Primary Loss	Excess Loss
200	-	-	-
2,000	((360)) <u>210</u>	((360)) <u>210</u>	-
20,000	((18,360)) <u>18,210</u>	((18,360)) <u>18,210</u>	-
200,000	((198,360)) <u>198,210</u>	((43,643)) <u>43,638</u>	((154,717)) <u>154,572</u>
2,000,000	((502,800)) <u>217,994</u>	((47,434)) <u>44,168</u>	((455,366)) <u>173,826</u>

Note:

The deduction, \$((+640)) 1,790, is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about seventy percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses. The \$2,000,000 loss is limited by the Maximum Claim Value before the reduction of \$((+640)) 1,790 is applied.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtract-

ing expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

AMENDATORY SECTION (Amending WSR 07-12-045, filed 5/31/07, effective 7/1/07)

WAC 296-17-870 Evaluation of actual losses. Except as provided in the following subsections of this paragraph, actual losses shall include all payments as of the "valuation date" for each claim arising from an accident occurring during the experience period. Losses for claims open as of the valuation date may also include a reserve for future payments. Actual losses on claims for accidents occurring outside of the experience period shall not be included.

(1) **Valuation date.** The ((valuation date shall be on and include December 31, one year and one day immediately preceding the effective date of premium rates as set forth in WAC 296-17-895. For experience modifications effective January 1, 1990, and thereafter, the)) valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

(2) **Retroactive adjustments - revision of losses between valuation dates.** No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

(a) In cases where loss values are included or excluded through mistake other than error of judgment.

(b) In cases where a third party recovery is made, subject to subsection (4)(a) of this section.

(c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.

(d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).

(e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the claim was included. Retroactive adjustments will not be made for rating periods more than ten years prior to the date on which the claim status was changed.

(3) **Average death value.** Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value." The "average death value" shall be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in WAC 296-17-880 (Table II).

(4) **Third-party recovery - effect on experience modification.**

(a) For claims with injury dates prior to July 1, 1994, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of actual losses until such time as the third-party action has been completed. If a third-

party recovery is made after a claim had previously been used in an experience modification calculation, the experience modification shall be retroactively adjusted. The department shall compute a percentage recovery by dividing the current valuation of the claim into the amount recovered or recoverable as of the recovery date, and shall reduce both primary and excess losses previously used in the experience modification calculation by that percentage.

(b) For claims with injury dates on or after July 1, 1994, if the department determines that there is a reasonable potential of recovery from an action against a third party, both primary and excess values of the claim shall be reduced by fifty percent for purposes of experience modification calculation, until such time as the third-party action has been completed. This calculation shall not be retroactively adjusted, regardless of the final outcome of the third-party action. After a third-party recovery is made, the actual percentage recovery shall be applied to future experience modification calculations.

(c) For third-party actions completed before July 1, 1996, the claim shall be credited with the department's net share of the recovery, after deducting attorney fees and costs. For third-party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.

(d) **Definitions:**

(i) As used in this section, "recovery date" means the date the money is received at the department or the date the order confirming the distribution of the recovery becomes final, whichever comes first.

(ii) As used in this section, "recoverable" means any amount due as of the recovery date and/or any amount available to offset case reserved future benefits.

(5) **Second injury claims.** The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

(6) **Occupational disease claims.** When a claim results from an employee's exposure to an occupational disease hazard, the "date of injury," for the purpose of experience rating, will be the date the disability was diagnosed and that gave rise to the filing of a claim for benefits. The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for at least ten percent of the claimant's exposure to the hazard, shall be charged for his/her share of the claim based upon the prorated costs.

(7) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in WAC 296-17-880 (Table II).

(8) **Catastrophic losses.** Whenever a single accident results in the deaths or total permanent disability of three or more workers employed by the same employer, costs charged to the employer's experience shall be limited as required by RCW 51.16.130.

(9) **Acts of terrorism.** Whenever any worker insured with the state fund sustains an injury or occupational disease as a result of an incident certified to be an act of terrorism under the U.S. Terrorism Risk Insurance Act of 2002, the costs of the resulting claim shall be excluded from the experience rating computation of the worker's employer.

(10) **Claims filed by preferred workers.** The costs of subsequent claims filed by certified preferred workers will not be included in experience calculations, as provided in WAC 296-16-010.

(11) **Life and rescue phase of emergencies:** This provision applies to "emergency workers" of nongovernmental employers assigned to report in classification 7205 (WAC 296-17A-7205) who assist in a life and rescue phase of a state or local emergency (disaster). The life and rescue phase of an emergency is defined in RCW 51.16.130(3) as being the first seventy-two hours after a natural or man-made disaster has occurred. For an employer to qualify for this special experience rating relief, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing survivors. This special relief is only applicable to nongovernmental employers during this initial seventy-two hour phase of the declared emergency unless the emergency has been extended by the official who declared the emergency. The cost of injuries or occupational disease claims filed by employees of nongovernmental employers assisting in the life and rescue phase of a declared emergency will not be charged to the experience record of the nongovernmental state fund employer.

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-875 Table I.

Primary Losses for Selected Claim Values Effective January 1, ((2008)) 2009

CLAIM VALUE	PRIMARY LOSS
((5,000	5,000
10,000	10,000
15,000	15,000
20,112	20,112
29,834	25,000
44,627	30,000
69,102	35,000
100,000	38,627
200,000	43,690
222,141*	44,268
300,000	45,686
400,000	46,754
502,800**	47,434
1,000,000	47,434))
5,000	5,000
10,000	10,000

Primary Losses for Selected Claim Values Effective January 1, ((2008)) 2009

CLAIM VALUE	PRIMARY LOSS
<u>15,000</u>	<u>15,000</u>
<u>20,112</u>	<u>20,112</u>
<u>29,834</u>	<u>25,000</u>
<u>44,627</u>	<u>30,000</u>
<u>69,102</u>	<u>35,000</u>
<u>100,000</u>	<u>38,627</u>
<u>117,385</u>	<u>40,000</u>
<u>200,000</u>	<u>43,690</u>
<u>217,994**</u>	<u>44,168</u>

((* Average death value))

** Maximum claim value

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-880 Table II.

PRIMARY AND EXCESS CREDIBILITY VALUES Effective January 1, ((2008)) 2009

Maximum Claim Value = \$ ((502,800)) 217,994
Average Death Value = \$ ((222,141)) 217,994

Expected Losses	Primary Credibility	Excess Credibility
((+ -	7,329	12%
7,330 -	7,822	13%
7,823 -	8,323	14%
8,324 -	8,829	15%
8,830 -	9,340	16%
9,341 -	9,859	17%
9,860 -	10,384	18%
10,385 -	10,915	19%
10,916 -	11,454	20%
11,455 -	12,000	21%
12,001 -	12,555	22%
12,556 -	13,116	23%
13,117 -	13,687	24%
13,688 -	14,267	25%
14,268 -	14,855	26%
14,856 -	15,452	27%
15,453 -	16,061	28%
16,062 -	16,680	29%
16,681 -	17,310	30%
17,311 -	17,953	31%
17,954 -	18,608	32%
18,609 -	19,277	33%
19,278 -	19,959	34%

PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2008)) 2009

Maximum Claim Value = \$ ((~~502,800~~) 217,994)
 Average Death Value = \$ ((~~222,141~~) 217,994)

Expected Losses	Primary Credibility	Excess Credibility
19,960 -	20,657	35%
20,658 -	21,371	36%
21,372 -	22,103	37%
22,104 -	22,855	38%
22,856 -	23,626	39%
23,627 -	24,420	40%
24,421 -	25,238	41%
25,239 -	26,083	42%
26,084 -	26,957	43%
26,958 -	27,864	44%
27,865 -	28,808	45%
28,809 -	29,793	46%
29,794 -	30,826	47%
30,827 -	31,914	48%
31,915 -	33,068	49%
33,069 -	34,301	50%
34,302 -	35,631	51%
35,632 -	37,087	52%
37,088 -	38,711	53%
38,712 -	38,877	54%
38,878 -	40,583	54%
40,584 -	42,867	55%
42,868 -	44,878	56%
44,879 -	47,508	57%
47,509 -	402,139	57%
402,140 -	405,201	57%
405,202 -	432,958	58%
432,959 -	445,525	58%
445,526 -	463,970	59%
463,971 -	485,847	59%
485,848 -	495,170	60%
495,171 -	226,171	60%
226,172 -	226,566	61%
226,567 -	258,158	61%
258,159 -	266,494	61%
266,495 -	289,948	62%
289,949 -	306,817	62%
306,818 -	321,937	63%
321,938 -	347,141	63%
347,142 -	354,127	64%
354,128 -	386,519	64%

PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2008)) 2009

Maximum Claim Value = \$ ((~~502,800~~) 217,994)
 Average Death Value = \$ ((~~222,141~~) 217,994)

Expected Losses	Primary Credibility	Excess Credibility
386,520 -	387,463	64%
387,464 -	419,119	65%
419,120 -	427,786	65%
427,787 -	451,925	66%
451,926 -	468,110	66%
468,111 -	484,939	67%
484,940 -	508,434	67%
508,435 -	518,165	68%
518,166 -	548,756	68%
548,757 -	551,603	69%
551,604 -	585,257	69%
585,258 -	589,079	69%
589,080 -	619,128	70%
619,129 -	629,403	70%
629,404 -	653,218	71%
653,219 -	669,727	71%
669,728 -	687,531	72%
687,532 -	710,049	72%
710,050 -	722,066	73%
722,067 -	750,373	73%
750,374 -	756,827	74%
756,828 -	790,696	74%
790,697 -	791,817	75%
791,818 -	827,037	75%
827,038 -	831,019	75%
831,020 -	862,490	76%
862,491 -	871,342	76%
871,343 -	898,177	77%
898,178 -	911,666	77%
911,667 -	934,102	78%
934,103 -	951,989	78%
951,990 -	970,266	79%
970,267 -	992,312	79%
992,313 -	1,006,672	80%
1,006,673 -	1,032,635	80%
1,032,636 -	1,043,322	81%
1,043,323 -	1,072,958	81%
1,072,959 -	1,080,220	82%
1,080,221 -	1,113,282	82%
1,113,283 -	1,117,368	83%
1,117,369 -	1,153,606	83%

PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2008)) 2009

Maximum Claim Value = \$ ((~~502,800~~) 217,994)
 Average Death Value = \$ ((~~222,141~~) 217,994)

Expected Losses	Primary Credibility	Excess Credibility
1,153,607 -	1,154,768	84%
1,154,769 -	1,192,421	84%
1,192,422 -	1,193,927	84%
1,193,928 -	1,230,331	85%
1,230,332 -	1,234,251	85%
1,234,252 -	1,268,503	86%
1,268,504 -	1,274,575	86%
1,274,576 -	1,306,935	87%
1,306,936 -	1,314,899	87%
1,314,900 -	1,345,634	88%
1,345,635 -	1,355,220	88%
1,355,221 -	1,384,601	89%
1,384,602 -	1,395,544	89%
1,395,545 -	1,423,838	90%
1,423,839 -	1,435,868	90%
1,435,869 -	1,463,349	91%
1,463,350 -	1,476,190	91%
1,476,191 -	1,503,136	92%
1,503,137 -	1,516,514	92%
1,516,515 -	1,543,203	93%
1,543,204 -	1,556,837	93%
1,556,838 -	1,583,552	94%
1,583,553 -	1,597,160	94%
1,597,161 -	1,624,187	95%
1,624,188 -	1,637,483	95%
1,637,484 -	1,665,109	96%
1,665,110 -	1,677,807	96%
1,677,808 -	1,706,322	97%
1,706,323 -	1,718,130	97%
1,718,131 -	1,747,831	98%
1,747,832 -	1,758,453	98%
1,758,454 -	1,789,638	99%
1,789,639 -	1,798,776	99%
1,798,777 -	1,831,746	100%
1,831,747 -	1,874,157	100%
1,874,158 -	1,916,876	100%
1,916,877 -	1,959,906	100%
1,959,907 -	2,003,250	100%
2,003,251 -	2,046,912	100%
2,046,913 -	2,090,895	100%
2,090,896 -	2,135,202	100%

PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2008)) 2009

Maximum Claim Value = \$ ((~~502,800~~) 217,994)
 Average Death Value = \$ ((~~222,141~~) 217,994)

Expected Losses	Primary Credibility	Excess Credibility
2,135,203 -	2,179,839	100%
2,179,840 -	2,224,808	100%
2,224,809 -	2,270,113	100%
2,270,114 -	2,315,756	100%
2,315,757 -	2,361,744	100%
2,361,745 -	2,408,078	100%
2,408,079 -	2,454,764	100%
2,454,765 -	2,501,806	100%
2,501,807 -	2,549,205	100%
2,549,206 -	2,596,970	100%
2,596,971 -	2,645,101	100%
2,645,102 -	2,693,604	100%
2,693,605 -	2,742,484	100%
2,742,485 -	2,791,745	100%
2,791,746 -	2,841,390	100%
2,841,391 -	2,891,425	100%
2,891,426 -	2,941,855	100%
2,941,856 -	2,992,683	100%
2,992,684 -	3,043,915	100%
3,043,916 -	3,095,555	100%
3,095,556 -	3,147,609	100%
3,147,610 -	& Over	100%
		86%))
	<u>1</u>	<u>12%</u>
	<u>7,182</u>	<u>7%</u>
	<u>7,183</u>	<u>13%</u>
	<u>7,666</u>	<u>7%</u>
	<u>7,667</u>	<u>14%</u>
	<u>8,157</u>	<u>7%</u>
	<u>8,158</u>	<u>15%</u>
	<u>8,652</u>	<u>7%</u>
	<u>8,653</u>	<u>16%</u>
	<u>9,153</u>	<u>7%</u>
	<u>9,154</u>	<u>17%</u>
	<u>9,662</u>	<u>7%</u>
	<u>9,663</u>	<u>18%</u>
	<u>10,176</u>	<u>7%</u>
	<u>10,177</u>	<u>19%</u>
	<u>10,697</u>	<u>7%</u>
	<u>11,225</u>	<u>20%</u>
	<u>11,760</u>	<u>21%</u>
	<u>12,304</u>	<u>22%</u>
	<u>12,305</u>	<u>23%</u>
	<u>12,854</u>	<u>7%</u>
	<u>12,855</u>	<u>24%</u>
	<u>13,413</u>	<u>7%</u>
	<u>13,414</u>	<u>25%</u>
	<u>13,982</u>	<u>7%</u>
	<u>13,983</u>	<u>26%</u>
	<u>14,558</u>	<u>7%</u>
	<u>14,559</u>	<u>27%</u>
	<u>15,143</u>	<u>7%</u>
	<u>15,144</u>	<u>28%</u>
	<u>15,740</u>	<u>7%</u>
	<u>15,741</u>	<u>29%</u>
	<u>16,346</u>	<u>7%</u>
	<u>16,347</u>	<u>30%</u>
	<u>16,964</u>	<u>7%</u>

PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2008)) 2009

Maximum Claim Value = \$ ((~~502,800~~) 217,994)
 Average Death Value = \$ ((~~222,141~~) 217,994)

Expected Losses	Primary Credibility	Excess Credibility
<u>16,965</u> - <u>17,594</u>	<u>31%</u>	<u>7%</u>
<u>17,595</u> - <u>18,236</u>	<u>32%</u>	<u>7%</u>
<u>18,237</u> - <u>18,891</u>	<u>33%</u>	<u>7%</u>
<u>18,892</u> - <u>19,560</u>	<u>34%</u>	<u>7%</u>
<u>19,561</u> - <u>20,244</u>	<u>35%</u>	<u>7%</u>
<u>20,245</u> - <u>20,944</u>	<u>36%</u>	<u>7%</u>
<u>20,945</u> - <u>21,661</u>	<u>37%</u>	<u>7%</u>
<u>21,662</u> - <u>22,398</u>	<u>38%</u>	<u>7%</u>
<u>22,399</u> - <u>23,153</u>	<u>39%</u>	<u>7%</u>
<u>23,154</u> - <u>23,932</u>	<u>40%</u>	<u>7%</u>
<u>23,933</u> - <u>24,733</u>	<u>41%</u>	<u>7%</u>
<u>24,734</u> - <u>25,561</u>	<u>42%</u>	<u>7%</u>
<u>25,562</u> - <u>26,418</u>	<u>43%</u>	<u>7%</u>
<u>26,419</u> - <u>27,307</u>	<u>44%</u>	<u>7%</u>
<u>27,308</u> - <u>28,232</u>	<u>45%</u>	<u>7%</u>
<u>28,233</u> - <u>29,197</u>	<u>46%</u>	<u>7%</u>
<u>29,198</u> - <u>30,209</u>	<u>47%</u>	<u>7%</u>
<u>30,210</u> - <u>31,276</u>	<u>48%</u>	<u>7%</u>
<u>31,277</u> - <u>32,407</u>	<u>49%</u>	<u>7%</u>
<u>32,408</u> - <u>33,615</u>	<u>50%</u>	<u>7%</u>
<u>33,616</u> - <u>34,918</u>	<u>51%</u>	<u>7%</u>
<u>34,919</u> - <u>36,345</u>	<u>52%</u>	<u>7%</u>
<u>36,346</u> - <u>37,937</u>	<u>53%</u>	<u>7%</u>
<u>37,938</u> - <u>38,099</u>	<u>54%</u>	<u>7%</u>
<u>38,100</u> - <u>39,771</u>	<u>54%</u>	<u>8%</u>
<u>39,772</u> - <u>42,010</u>	<u>55%</u>	<u>8%</u>
<u>42,011</u> - <u>63,580</u>	<u>56%</u>	<u>8%</u>
<u>63,581</u> - <u>70,078</u>	<u>57%</u>	<u>8%</u>
<u>70,079</u> - <u>100,096</u>	<u>57%</u>	<u>9%</u>
<u>100,097</u> - <u>103,097</u>	<u>57%</u>	<u>10%</u>
<u>103,098</u> - <u>130,299</u>	<u>58%</u>	<u>10%</u>
<u>130,300</u> - <u>142,614</u>	<u>58%</u>	<u>11%</u>
<u>142,615</u> - <u>160,691</u>	<u>59%</u>	<u>11%</u>
<u>160,692</u> - <u>182,130</u>	<u>59%</u>	<u>12%</u>
<u>182,131</u> - <u>191,267</u>	<u>60%</u>	<u>12%</u>
<u>191,268</u> - <u>221,648</u>	<u>60%</u>	<u>13%</u>
<u>221,649</u> - <u>222,035</u>	<u>61%</u>	<u>13%</u>
<u>222,036</u> - <u>252,995</u>	<u>61%</u>	<u>14%</u>
<u>252,996</u> - <u>261,164</u>	<u>61%</u>	<u>15%</u>
<u>261,165</u> - <u>284,149</u>	<u>62%</u>	<u>15%</u>
<u>284,150</u> - <u>300,681</u>	<u>62%</u>	<u>16%</u>

PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2008)) 2009

Maximum Claim Value = \$ ((~~502,800~~) 217,994)
 Average Death Value = \$ ((~~222,141~~) 217,994)

Expected Losses	Primary Credibility	Excess Credibility
<u>300,682</u> - <u>315,498</u>	<u>63%</u>	<u>16%</u>
<u>315,499</u> - <u>340,198</u>	<u>63%</u>	<u>17%</u>
<u>340,199</u> - <u>347,044</u>	<u>64%</u>	<u>17%</u>
<u>347,045</u> - <u>378,789</u>	<u>64%</u>	<u>18%</u>
<u>378,790</u> - <u>379,714</u>	<u>64%</u>	<u>19%</u>
<u>379,715</u> - <u>410,737</u>	<u>65%</u>	<u>19%</u>
<u>410,738</u> - <u>419,230</u>	<u>65%</u>	<u>20%</u>
<u>419,231</u> - <u>442,886</u>	<u>66%</u>	<u>20%</u>
<u>442,887</u> - <u>458,748</u>	<u>66%</u>	<u>21%</u>
<u>458,749</u> - <u>475,240</u>	<u>67%</u>	<u>21%</u>
<u>475,241</u> - <u>498,265</u>	<u>67%</u>	<u>22%</u>
<u>498,266</u> - <u>507,802</u>	<u>68%</u>	<u>22%</u>
<u>507,803</u> - <u>537,781</u>	<u>68%</u>	<u>23%</u>
<u>537,782</u> - <u>540,571</u>	<u>69%</u>	<u>23%</u>
<u>540,572</u> - <u>573,552</u>	<u>69%</u>	<u>24%</u>
<u>573,553</u> - <u>577,297</u>	<u>69%</u>	<u>25%</u>
<u>577,298</u> - <u>606,745</u>	<u>70%</u>	<u>25%</u>
<u>606,746</u> - <u>616,815</u>	<u>70%</u>	<u>26%</u>
<u>616,816</u> - <u>640,154</u>	<u>71%</u>	<u>26%</u>
<u>640,155</u> - <u>656,332</u>	<u>71%</u>	<u>27%</u>
<u>656,333</u> - <u>673,780</u>	<u>72%</u>	<u>27%</u>
<u>673,781</u> - <u>695,848</u>	<u>72%</u>	<u>28%</u>
<u>695,849</u> - <u>707,625</u>	<u>73%</u>	<u>28%</u>
<u>707,626</u> - <u>735,366</u>	<u>73%</u>	<u>29%</u>
<u>735,367</u> - <u>741,690</u>	<u>74%</u>	<u>29%</u>
<u>741,691</u> - <u>774,882</u>	<u>74%</u>	<u>30%</u>
<u>774,883</u> - <u>775,981</u>	<u>75%</u>	<u>30%</u>
<u>775,982</u> - <u>810,496</u>	<u>75%</u>	<u>31%</u>
<u>810,497</u> - <u>814,399</u>	<u>75%</u>	<u>32%</u>
<u>814,400</u> - <u>845,240</u>	<u>76%</u>	<u>32%</u>
<u>845,241</u> - <u>853,915</u>	<u>76%</u>	<u>33%</u>
<u>853,916</u> - <u>880,213</u>	<u>77%</u>	<u>33%</u>
<u>880,214</u> - <u>893,433</u>	<u>77%</u>	<u>34%</u>
<u>893,434</u> - <u>915,420</u>	<u>78%</u>	<u>34%</u>
<u>915,421</u> - <u>932,949</u>	<u>78%</u>	<u>35%</u>
<u>932,950</u> - <u>950,861</u>	<u>79%</u>	<u>35%</u>
<u>950,862</u> - <u>972,466</u>	<u>79%</u>	<u>36%</u>
<u>972,467</u> - <u>986,539</u>	<u>80%</u>	<u>36%</u>
<u>986,540</u> - <u>1,011,982</u>	<u>80%</u>	<u>37%</u>
<u>1,011,983</u> - <u>1,022,456</u>	<u>81%</u>	<u>37%</u>
<u>1,022,457</u> - <u>1,051,499</u>	<u>81%</u>	<u>38%</u>

PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2008)) 2009

Maximum Claim Value = \$ ((502,800)) 217,994
 Average Death Value = \$ ((222,141)) 217,994

Expected Losses	Primary Credibility	Excess Credibility
<u>1,051,500</u> -	<u>1,058,616</u>	<u>82%</u>
<u>1,058,617</u> -	<u>1,091,016</u>	<u>82%</u>
<u>1,091,017</u> -	<u>1,095,021</u>	<u>83%</u>
<u>1,095,022</u> -	<u>1,130,534</u>	<u>83%</u>
<u>1,130,535</u> -	<u>1,131,673</u>	<u>84%</u>
<u>1,131,674</u> -	<u>1,168,573</u>	<u>84%</u>
<u>1,168,574</u> -	<u>1,170,048</u>	<u>84%</u>
<u>1,170,049</u> -	<u>1,205,724</u>	<u>85%</u>
<u>1,205,725</u> -	<u>1,209,566</u>	<u>85%</u>
<u>1,209,567</u> -	<u>1,243,133</u>	<u>86%</u>
<u>1,243,134</u> -	<u>1,249,083</u>	<u>86%</u>
<u>1,249,084</u> -	<u>1,280,796</u>	<u>87%</u>
<u>1,280,797</u> -	<u>1,288,601</u>	<u>87%</u>
<u>1,288,602</u> -	<u>1,318,721</u>	<u>88%</u>
<u>1,318,722</u> -	<u>1,328,116</u>	<u>88%</u>
<u>1,328,117</u> -	<u>1,356,909</u>	<u>89%</u>
<u>1,356,910</u> -	<u>1,367,633</u>	<u>89%</u>
<u>1,367,634</u> -	<u>1,395,361</u>	<u>90%</u>
<u>1,395,362</u> -	<u>1,407,151</u>	<u>90%</u>
<u>1,407,152</u> -	<u>1,434,082</u>	<u>91%</u>
<u>1,434,083</u> -	<u>1,446,666</u>	<u>91%</u>
<u>1,446,667</u> -	<u>1,473,073</u>	<u>92%</u>
<u>1,473,074</u> -	<u>1,486,184</u>	<u>92%</u>
<u>1,486,185</u> -	<u>1,512,339</u>	<u>93%</u>
<u>1,512,340</u> -	<u>1,525,700</u>	<u>93%</u>
<u>1,525,701</u> -	<u>1,551,881</u>	<u>94%</u>
<u>1,551,882</u> -	<u>1,565,217</u>	<u>94%</u>
<u>1,565,218</u> -	<u>1,591,703</u>	<u>95%</u>
<u>1,591,704</u> -	<u>1,604,733</u>	<u>95%</u>
<u>1,604,734</u> -	<u>1,631,807</u>	<u>96%</u>
<u>1,631,808</u> -	<u>1,644,251</u>	<u>96%</u>
<u>1,644,252</u> -	<u>1,672,196</u>	<u>97%</u>
<u>1,672,197</u> -	<u>1,683,767</u>	<u>97%</u>
<u>1,683,768</u> -	<u>1,712,874</u>	<u>98%</u>
<u>1,712,875</u> -	<u>1,723,284</u>	<u>98%</u>
<u>1,723,285</u> -	<u>1,753,845</u>	<u>99%</u>
<u>1,753,846</u> -	<u>1,762,800</u>	<u>99%</u>
<u>1,762,801</u> -	<u>1,795,111</u>	<u>100%</u>
<u>1,795,112</u> -	<u>1,836,674</u>	<u>100%</u>
<u>1,836,675</u> -	<u>1,878,538</u>	<u>100%</u>
<u>1,878,539</u> -	<u>1,920,708</u>	<u>100%</u>

PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, ((2008)) 2009

Maximum Claim Value = \$ ((502,800)) 217,994
 Average Death Value = \$ ((222,141)) 217,994

Expected Losses	Primary Credibility	Excess Credibility
<u>1,920,709</u> -	<u>1,963,185</u>	<u>100%</u>
<u>1,963,186</u> -	<u>2,005,974</u>	<u>100%</u>
<u>2,005,975</u> -	<u>2,049,077</u>	<u>100%</u>
<u>2,049,078</u> -	<u>2,092,498</u>	<u>100%</u>
<u>2,092,499</u> -	<u>2,136,242</u>	<u>100%</u>
<u>2,136,243</u> -	<u>2,180,312</u>	<u>100%</u>
<u>2,180,313</u> -	<u>2,224,711</u>	<u>100%</u>
<u>2,224,712</u> -	<u>2,269,441</u>	<u>100%</u>
<u>2,269,442</u> -	<u>2,314,509</u>	<u>100%</u>
<u>2,314,510</u> -	<u>2,359,916</u>	<u>100%</u>
<u>2,359,917</u> -	<u>2,405,669</u>	<u>100%</u>
<u>2,405,670</u> -	<u>2,451,770</u>	<u>100%</u>
<u>2,451,771</u> -	<u>2,498,221</u>	<u>100%</u>
<u>2,498,222</u> -	<u>2,545,031</u>	<u>100%</u>
<u>2,545,032</u> -	<u>2,592,199</u>	<u>100%</u>
<u>2,592,200</u> -	<u>2,639,732</u>	<u>100%</u>
<u>2,639,733</u> -	<u>2,687,634</u>	<u>100%</u>
<u>2,687,635</u> -	<u>2,735,910</u>	<u>100%</u>
<u>2,735,911</u> -	<u>2,784,562</u>	<u>100%</u>
<u>2,784,563</u> -	<u>2,833,596</u>	<u>100%</u>
<u>2,833,597</u> -	<u>2,883,018</u>	<u>100%</u>
<u>2,883,019</u> -	<u>2,932,829</u>	<u>100%</u>
<u>2,932,830</u> -	<u>2,983,037</u>	<u>100%</u>
<u>2,983,038</u> -	<u>3,033,644</u>	<u>100%</u>
<u>3,033,645</u> -	<u>3,084,657</u>	<u>100%</u>
<u>3,084,658</u> -	<u>& over</u>	<u>100%</u>

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-885 Table III.

**Expected Loss Rates and Primary Ratios
for Indicated Fiscal Year**

**Expected Loss Rates in Dollars Per Worker Hour
Effective January 1, ((2008)) 2009**

Class	((2004)) <u>2005</u>	((2005)) <u>2006</u>	((2006)) <u>2007</u>	Primary Ratio
((0104	1.2923	1.0989	0.9405	0.458
0103	1.7197	1.4658	1.2548	0.470
0104	0.9388	0.7998	0.6839	0.470
0105	1.3161	1.1381	0.9769	0.537
0107	1.2384	1.0485	0.8957	0.443
0108	0.9388	0.7998	0.6839	0.470

Class	((2004)) 2005	((2005)) 2006	((2006)) 2007	Primary Ratio	Class	((2004)) 2005	((2005)) 2006	((2006)) 2007	Primary Ratio
0112	0.7679	0.6562	0.5615	0.482	1304	0.0295	0.0257	0.0220	0.561
0201	2.4471	2.0570	1.7471	0.421	1305	0.4363	0.3802	0.3262	0.578
0202	3.1766	2.6829	2.3114	0.402	1401	0.5078	0.4363	0.3821	0.446
0210	1.1827	1.0011	0.8537	0.444	1404	0.7932	0.6908	0.5952	0.562
0212	1.3598	1.1538	0.9849	0.454	1405	0.6071	0.5313	0.4534	0.608
0214	1.3333	1.1325	0.9601	0.477	1407	0.5851	0.5096	0.4415	0.547
0217	1.1010	0.9403	0.8030	0.486	1501	0.6072	0.5247	0.4492	0.541
0219	0.9948	0.8514	0.7346	0.465	1507	0.5757	0.4971	0.4255	0.536
0301	0.6304	0.5471	0.4710	0.549	1701	0.9505	0.8141	0.7003	0.478
0302	1.9304	1.6320	1.3858	0.448	1702	2.1811	1.8244	1.5571	0.381
0303	1.8522	1.5599	1.3274	0.424	1703	0.8628	0.7253	0.6121	0.436
0306	0.9924	0.8429	0.7153	0.476	1704	0.9505	0.8141	0.7003	0.478
0307	0.9680	0.8263	0.7048	0.489	1801	0.5417	0.4624	0.4009	0.445
0308	0.5505	0.4813	0.4157	0.573	1802	0.7357	0.6339	0.5418	0.526
0403	1.7153	1.4862	1.2730	0.551	2002	0.7436	0.6465	0.5583	0.545
0502	1.5269	1.2930	1.1003	0.452	2004	0.9824	0.8551	0.7366	0.559
0504	1.6228	1.3843	1.1935	0.453	2007	0.4940	0.4277	0.3687	0.532
0507	2.8623	2.4467	2.1105	0.463	2008	0.3333	0.2868	0.2481	0.491
0508	2.0134	1.6878	1.4382	0.399	2009	0.4135	0.3614	0.3134	0.564
0509	1.7184	1.4506	1.2404	0.426	2101	0.6906	0.5975	0.5175	0.512
0510	1.5547	1.3367	1.1481	0.504	2102	0.5456	0.4770	0.4120	0.577
0511	1.6595	1.4119	1.2023	0.476	2104	0.3683	0.3237	0.2826	0.575
0512	1.5573	1.3180	1.1252	0.442	2105	0.5846	0.5108	0.4372	0.597
0513	0.8054	0.6888	0.5876	0.497	2106	0.4360	0.3804	0.3290	0.560
0514	1.8923	1.6142	1.3768	0.483	2201	0.2522	0.2189	0.1895	0.532
0516	1.6543	1.4050	1.2041	0.448	2202	0.7379	0.6394	0.5490	0.546
0517	1.8543	1.5812	1.3628	0.452	2203	0.4840	0.4235	0.3657	0.581
0518	1.5719	1.3289	1.1346	0.436	2204	0.2522	0.2189	0.1895	0.532
0519	2.2276	1.8804	1.6129	0.413	2401	0.5006	0.4343	0.3710	0.563
0521	0.5845	0.4999	0.4293	0.477	2903	0.6529	0.5685	0.4919	0.551
0601	0.6563	0.5607	0.4794	0.487	2904	0.7452	0.6447	0.5582	0.519
0602	0.8052	0.6874	0.5826	0.507	2905	0.5723	0.5017	0.4340	0.584
0603	1.0259	0.8643	0.7365	0.425	2906	0.3317	0.2882	0.2484	0.554
0604	1.0123	0.8754	0.7570	0.518	2907	0.5351	0.4686	0.4038	0.589
0606	0.5511	0.4790	0.4114	0.563	2908	1.0651	0.9131	0.7844	0.488
0607	0.5412	0.4684	0.4011	0.548	2909	0.3994	0.3482	0.3013	0.559
0608	0.3801	0.3264	0.2804	0.497	3101	0.9234	0.7891	0.6765	0.479
0701	2.0548	1.7035	1.4377	0.369	3102	0.2803	0.2432	0.2094	0.552
0803	0.4721	0.4102	0.3513	0.568	3103	0.5816	0.5023	0.4336	0.513
0901	1.5719	1.3289	1.1346	0.436	3104	0.6198	0.5321	0.4568	0.500
1002	1.0127	0.8718	0.7516	0.500	3105	0.7612	0.6397	0.5681	0.540
1003	0.8071	0.6939	0.5987	0.494	3303	0.4512	0.3934	0.3378	0.578
1004	0.5289	0.4545	0.3874	0.523	3304	0.4808	0.4230	0.3663	0.601
1005	8.5188	7.2538	6.1992	0.461	3309	0.4422	0.3826	0.3304	0.528
1007	0.3743	0.3200	0.2734	0.491	3402	0.5400	0.4666	0.4014	0.528
1101	0.7394	0.6407	0.5501	0.545	3403	0.2100	0.1810	0.1564	0.512
1102	1.3609	1.1635	0.9948	0.488	3404	0.4972	0.4326	0.3729	0.556
1103	1.2423	1.0646	0.9225	0.459	3405	0.3132	0.2718	0.2340	0.550
1104	0.5531	0.4824	0.4180	0.554	3406	0.2058	0.1808	0.1566	0.593
1105	0.9232	0.7904	0.6803	0.479	3407	0.7313	0.6286	0.5396	0.504
1106	0.3564	0.3107	0.2714	0.531	3408	0.1848	0.1622	0.1385	0.620
1108	0.6580	0.5696	0.4893	0.542	3409	0.1752	0.1554	0.1335	0.662
1109	1.5467	1.3391	1.1559	0.527	3410	0.2987	0.2618	0.2267	0.581
1301	0.6416	0.5577	0.4698	0.608	3411	0.4869	0.4196	0.3598	0.524
1303	0.2280	0.1989	0.1700	0.590	3412	0.5888	0.5021	0.4292	0.476

Class	((2004)) 2005	((2005)) 2006	((2006)) 2007	Primary Ratio	Class	((2004)) 2005	((2005)) 2006	((2006)) 2007	Primary Ratio
3414	0.5828	0.5036	0.4315	0.539	4901	0.0776	0.0667	0.0573	0.506
3415	0.8492	0.7238	0.6268	0.441	4902	0.1128	0.0984	0.0842	0.587
3501	1.0940	0.9459	0.8153	0.521	4903	0.1596	0.1401	0.1191	0.637
3503	0.3183	0.2808	0.2459	0.584	4904	0.0295	0.0259	0.0224	0.580
3506	1.0789	0.9140	0.7759	0.464	4905	0.3779	0.3326	0.2903	0.584
3509	0.4235	0.3735	0.3223	0.624	4906	0.0976	0.0853	0.0733	0.594
3510	0.3716	0.3246	0.2796	0.581	4907	0.0541	0.0471	0.0409	0.556
3511	0.7285	0.6298	0.5438	0.519	4908	0.0818	0.0721	0.0636	0.560
3512	0.3498	0.3061	0.2655	0.574	4909	0.0412	0.0363	0.0323	0.526
3513	0.4850	0.4173	0.3672	0.441	4910	0.4878	0.4221	0.3658	0.513
3602	0.1335	0.1166	0.1005	0.579	4911	0.0656	0.0567	0.0491	0.525
3603	0.4816	0.4182	0.3616	0.539	5001	5.7543	4.8570	4.1537	0.420
3604	0.8426	0.7275	0.6357	0.486	5002	0.6136	0.5330	0.4554	0.571
3605	0.5400	0.4673	0.3999	0.547	5003	2.1347	1.8047	1.5467	0.422
3701	0.2803	0.2432	0.2094	0.552	5004	0.9396	0.8078	0.7011	0.476
3702	0.4588	0.3996	0.3432	0.573	5005	0.6001	0.5112	0.4394	0.451
3708	0.6421	0.5541	0.4751	0.532	5006	1.5992	1.3483	1.1575	0.403
3802	0.2061	0.1805	0.1551	0.598	5101	0.9195	0.8002	0.6859	0.574
3808	0.4392	0.3769	0.3232	0.501	5103	0.7676	0.6723	0.5812	0.585
3901	0.1772	0.1568	0.1364	0.621	5106	0.7676	0.6723	0.5812	0.585
3902	0.4975	0.4336	0.3758	0.551	5108	0.9196	0.8058	0.6939	0.599
3903	1.1476	1.0011	0.8751	0.533	5109	0.5757	0.4972	0.4264	0.533
3905	0.1629	0.1435	0.1251	0.593	5201	0.4316	0.3736	0.3207	0.549
3906	0.4927	0.4302	0.3726	0.562	5204	0.9447	0.8089	0.7002	0.466
3909	0.2688	0.2368	0.2052	0.612	5206	0.4183	0.3594	0.3075	0.515
4002	1.4196	1.2198	1.0360	0.531	5207	0.1790	0.1585	0.1380	0.624
4101	0.3223	0.2786	0.2397	0.530	5208	0.8177	0.7068	0.6106	0.517
4103	0.4580	0.4042	0.3501	0.616	5209	0.7464	0.6422	0.5544	0.496
4107	0.1717	0.1489	0.1287	0.533	5301	0.0362	0.0317	0.0272	0.597
4108	0.1565	0.1361	0.1179	0.545	5302	0.0196	0.0170	0.0148	0.543
4109	0.2158	0.1868	0.1615	0.526	5305	0.0541	0.0478	0.0413	0.638
4201	0.7187	0.6169	0.5218	0.537	5306	0.0636	0.0560	0.0482	0.613
4301	0.6780	0.5939	0.5139	0.581	5307	0.5835	0.5056	0.4317	0.561
4302	0.6894	0.5996	0.5151	0.564	6103	0.0846	0.0749	0.0651	0.626
4304	1.0468	0.9092	0.7903	0.522	6104	0.3775	0.3315	0.2870	0.593
4305	1.2504	1.0771	0.9143	0.545	6105	0.3630	0.3140	0.2699	0.535
4401	0.4210	0.3638	0.3172	0.492	6107	0.1401	0.1235	0.1079	0.596
4402	0.8608	0.7544	0.6505	0.596	6108	0.4722	0.4150	0.3602	0.591
4404	0.5811	0.5083	0.4383	0.581	6109	0.0998	0.0866	0.0744	0.559
4501	0.1922	0.1698	0.1467	0.631	6110	0.6561	0.5712	0.4926	0.557
4502	0.0417	0.0364	0.0317	0.538	6121	0.3691	0.3200	0.2753	0.545
4504	0.1141	0.1010	0.0879	0.634	6201	0.3211	0.2747	0.2367	0.477
4601	0.7683	0.6664	0.5753	0.535	6202	0.6737	0.5847	0.5080	0.523
4802	0.3294	0.2859	0.2499	0.501	6203	0.1027	0.0921	0.0805	0.678
4803	0.3043	0.2685	0.2353	0.583	6204	0.1282	0.1124	0.0975	0.589
4804	0.5366	0.4700	0.4053	0.590	6205	0.2657	0.2321	0.2009	0.566
4805	0.3041	0.2668	0.2320	0.580	6206	0.2386	0.2085	0.1800	0.577
4806	0.0611	0.0533	0.0463	0.542	6207	1.1091	0.9711	0.8590	0.520
4808	0.5158	0.4462	0.3884	0.499	6208	0.2491	0.2194	0.1918	0.582
4809	0.3934	0.3457	0.3003	0.589	6209	0.3266	0.2862	0.2486	0.574
4810	0.1473	0.1297	0.1133	0.584	6301	0.1383	0.1175	0.1006	0.457
4811	0.2838	0.2493	0.2175	0.578	6302	0.1983	0.1738	0.1505	0.583
4812	0.4079	0.3574	0.3087	0.590	6303	0.0717	0.0622	0.0536	0.539
4813	0.1621	0.1421	0.1242	0.562	6304	0.4225	0.3724	0.3253	0.587
4900	0.3229	0.2727	0.2337	0.420	6305	0.1052	0.0928	0.0808	0.597

Class	((2004)) 2005	((2005)) 2006	((2006)) 2007	Primary Ratio	Class	((2004)) 2005	((2005)) 2006	((2006)) 2007	Primary Ratio
6306	0.3357	0.2926	0.2519	0.570	7105	0.0338	0.0299	0.0256	0.650
6308	0.0688	0.0602	0.0518	0.586	7106	0.2099	0.1850	0.1603	0.613
6309	0.1983	0.1738	0.1505	0.583	7107	0.2333	0.2050	0.1799	0.565
6402	0.2909	0.2572	0.2219	0.638	7108	0.2005	0.1767	0.1546	0.586
6403	0.1822	0.1605	0.1397	0.594	7109	0.1393	0.1230	0.1066	0.618
6404	0.2401	0.2105	0.1823	0.583	7110	0.3484	0.2991	0.2565	0.500
6405	0.5801	0.5004	0.4304	0.522	7111	0.3995	0.3422	0.2930	0.493
6406	0.1256	0.1108	0.0960	0.613	7112	0.6747	0.5883	0.5092	0.560
6407	0.2851	0.2494	0.2156	0.578	7113	0.3831	0.3361	0.2935	0.567
6408	0.4132	0.3594	0.3086	0.571	7114	0.5463	0.4826	0.4180	0.622
6409	0.8366	0.7179	0.6130	0.512	7115	0.5986	0.5259	0.4574	0.586
6410	0.2932	0.2549	0.2203	0.551	7116	0.7126	0.6229	0.5395	0.565
6501	0.1721	0.1513	0.1303	0.611	7117	1.7551	1.5436	1.3315	0.612
6502	0.0396	0.0346	0.0299	0.568	7118	1.4140	1.2356	1.0696	0.570
6503	0.0789	0.0678	0.0575	0.537	7119	1.3745	1.1991	1.0298	0.578
6504	0.4100	0.3625	0.3157	0.617	7120	6.3153	5.4661	4.7204	0.526
6505	0.1073	0.0950	0.0830	0.609	7121	5.8741	5.0835	4.3915	0.524
6506	0.1105	0.0974	0.0845	0.611	7122	0.5813	0.5145	0.4468	0.626
6509	0.3816	0.3350	0.2913	0.580	7201	1.5270	1.3180	1.1205	0.550
6510	0.4802	0.4092	0.3512	0.459	7202	0.0348	0.0300	0.0255	0.527
6511	0.3800	0.3342	0.2898	0.594	7203	0.1296	0.1148	0.1013	0.596
6512	0.2362	0.2059	0.1782	0.554	7204	0.0000	0.0000	0.0000	0.500
6601	0.1969	0.1720	0.1494	0.562	7301	0.5321	0.4605	0.4011	0.500
6602	0.5245	0.4572	0.3963	0.553	7302	1.0314	0.8964	0.7806	0.521
6603	0.3413	0.2963	0.2545	0.555	7307	0.5071	0.4424	0.3849	0.540
6604	0.0864	0.0760	0.0655	0.605	7308	0.3293	0.2913	0.2546	0.608
6605	0.3145	0.2775	0.2419	0.603	7309	0.2744	0.2421	0.2114	0.593))
6607	0.1766	0.1539	0.1332	0.550	0101	1.1562	1.0670	0.9468	0.480
6608	0.5580	0.4695	0.3986	0.430	0103	1.5678	1.4484	1.2836	0.496
6620	4.3528	3.8318	3.2406	0.663	0104	0.8114	0.7499	0.6659	0.491
6704	0.1695	0.1484	0.1273	0.601	0105	1.2149	1.1258	0.9936	0.557
6705	0.8379	0.7423	0.6536	0.597	0107	1.1768	1.0825	0.9605	0.455
6706	0.3301	0.2880	0.2519	0.536	0108	0.8114	0.7499	0.6659	0.491
6707	3.6539	3.2686	2.8014	0.708	0112	0.6373	0.5886	0.5212	0.498
6708	8.9411	7.7752	6.9710	0.442	0201	2.2215	2.0342	1.7997	0.432
6709	0.2982	0.2632	0.2284	0.609	0202	2.7095	2.5024	2.2426	0.418
6801	0.6210	0.5398	0.4589	0.592	0210	1.0292	0.9466	0.8370	0.471
6802	0.4947	0.4336	0.3728	0.601	0212	1.2184	1.1214	0.9923	0.472
6803	0.9244	0.7739	0.6656	0.364	0214	1.2444	1.1419	1.0035	0.492
6804	0.2948	0.2563	0.2206	0.564	0217	0.9368	0.8641	0.7622	0.512
6809	5.0004	4.3792	3.8100	0.566	0219	0.9462	0.8762	0.7798	0.489
6901	0.0189	0.0181	0.0173	0.714	0301	0.5890	0.5475	0.4841	0.569
6902	1.0415	0.8768	0.7457	0.422	0302	1.7372	1.5936	1.4058	0.463
6903	7.6603	6.3919	5.5502	0.322	0303	1.5862	1.4569	1.2918	0.441
6904	0.4411	0.3857	0.3241	0.642	0306	0.8978	0.8255	0.7275	0.496
6905	0.3977	0.3474	0.2948	0.619	0307	0.8328	0.7684	0.6801	0.505
6906	0.1568	0.1466	0.1372	0.712	0308	0.5078	0.4734	0.4202	0.567
6907	1.3586	1.1822	1.0196	0.555	0403	1.6154	1.4946	1.3168	0.548
6908	0.4711	0.4105	0.3525	0.575	0502	1.2311	1.1318	0.9986	0.481
6909	0.1223	0.1076	0.0929	0.601	0504	1.5270	1.4170	1.2676	0.472
7100	0.0338	0.0292	0.0255	0.487	0507	2.6212	2.4325	2.1752	0.480
7101	0.0252	0.0216	0.0188	0.452	0508	1.6792	1.5422	1.3731	0.418
7102	4.3174	3.8400	3.4205	0.583	0509	1.5868	1.4630	1.3080	0.426
7103	0.6355	0.5498	0.4686	0.556	0510	1.5211	1.4089	1.2506	0.507
7104	0.0316	0.0278	0.0238	0.625	0511	1.4512	1.3365	1.1793	0.501

Class	((2004)) <u>2005</u>	((2005)) <u>2006</u>	((2006)) <u>2007</u>	Primary Ratio	Class	((2004)) <u>2005</u>	((2005)) <u>2006</u>	((2006)) <u>2007</u>	Primary Ratio
0512	1.4284	1.3166	1.1726	0.449	2105	0.5533	0.5135	0.4518	0.597
0513	0.6867	0.6337	0.5594	0.515	2106	0.4079	0.3802	0.3377	0.569
0514	1.7034	1.5686	1.3833	0.504	2201	0.2389	0.2228	0.1986	0.540
0516	1.4116	1.3042	1.1588	0.481	2202	0.6754	0.6267	0.5551	0.545
0517	1.7007	1.5758	1.4079	0.468	2203	0.4633	0.4318	0.3821	0.584
0518	1.3137	1.2111	1.0764	0.465	2204	0.2389	0.2228	0.1986	0.540
0519	1.8165	1.6784	1.5010	0.440	2401	0.4804	0.4437	0.3876	0.585
0521	0.5353	0.4947	0.4378	0.507	2903	0.6153	0.5734	0.5091	0.570
0601	0.5686	0.5247	0.4639	0.510	2904	0.6711	0.6252	0.5575	0.541
0602	0.7117	0.6536	0.5731	0.518	2905	0.5710	0.5325	0.4719	0.587
0603	0.9064	0.8339	0.7430	0.432	2906	0.3214	0.2992	0.2658	0.566
0604	0.9595	0.8931	0.7975	0.517	2907	0.5212	0.4847	0.4278	0.593
0606	0.5236	0.4859	0.4286	0.568	2908	0.9535	0.8834	0.7846	0.508
0607	0.5206	0.4814	0.4233	0.559	2909	0.3764	0.3511	0.3126	0.563
0608	0.3269	0.3029	0.2689	0.521	3101	0.7551	0.6984	0.6199	0.504
0701	1.7007	1.5501	1.3731	0.386	3102	0.2672	0.2483	0.2204	0.552
0803	0.4463	0.4139	0.3649	0.572	3103	0.5267	0.4894	0.4352	0.524
0901	1.3137	1.2111	1.0764	0.465	3104	0.5776	0.5350	0.4741	0.528
1002	0.9636	0.8943	0.7960	0.509	3105	0.6844	0.6365	0.5667	0.541
1003	0.7274	0.6756	0.6018	0.514	3303	0.4308	0.4002	0.3524	0.586
1004	0.5011	0.4620	0.4058	0.532	3304	0.4656	0.4353	0.3868	0.590
1005	7.6265	7.0229	6.2072	0.475	3309	0.3950	0.3675	0.3273	0.534
1007	0.3261	0.3009	0.2659	0.511	3402	0.5099	0.4733	0.4201	0.541
1101	0.7185	0.6663	0.5881	0.558	3403	0.1942	0.1807	0.1614	0.528
1102	1.2864	1.1866	1.0488	0.496	3404	0.4860	0.4519	0.4011	0.557
1103	1.1438	1.0616	0.9494	0.473	3405	0.2888	0.2691	0.2394	0.570
1104	0.5376	0.5013	0.4454	0.571	3406	0.2095	0.1955	0.1732	0.604
1105	0.7964	0.7373	0.6551	0.499	3407	0.7195	0.6653	0.5894	0.510
1106	0.3284	0.3079	0.2769	0.547	3408	0.1870	0.1733	0.1512	0.622
1108	0.5909	0.5480	0.4853	0.548	3409	0.1730	0.1612	0.1411	0.651
1109	1.4481	1.3457	1.1965	0.527	3410	0.2870	0.2679	0.2371	0.597
1301	0.5816	0.5344	0.4621	0.597	3411	0.4574	0.4234	0.3740	0.541
1303	0.2141	0.1983	0.1740	0.591	3412	0.5295	0.4887	0.4330	0.496
1304	0.0288	0.0268	0.0236	0.565	3414	0.5329	0.4938	0.4363	0.547
1305	0.4386	0.4069	0.3580	0.584	3415	0.7533	0.7003	0.6313	0.450
1401	0.4469	0.4187	0.3798	0.461	3501	1.0127	0.9402	0.8336	0.533
1404	0.7793	0.7244	0.6397	0.576	3503	0.2985	0.2810	0.2524	0.586
1405	0.6098	0.5647	0.4936	0.610	3506	0.8906	0.8186	0.7220	0.496
1407	0.4967	0.4642	0.4148	0.549	3509	0.4153	0.3876	0.3421	0.621
1501	0.5680	0.5250	0.4616	0.554	3510	0.3508	0.3265	0.2886	0.593
1507	0.5571	0.5158	0.4552	0.548	3511	0.6453	0.6001	0.5344	0.533
1701	0.8495	0.7869	0.6988	0.503	3512	0.3396	0.3180	0.2846	0.581
1702	1.8111	1.6629	1.4848	0.394	3513	0.4330	0.4067	0.3707	0.464
1703	0.7548	0.6893	0.6055	0.450	3602	0.1265	0.1177	0.1042	0.577
1704	0.8495	0.7869	0.6988	0.503	3603	0.4411	0.4113	0.3665	0.558
1801	0.4614	0.4294	0.3869	0.462	3604	0.7591	0.7122	0.6458	0.506
1802	0.6890	0.6372	0.5627	0.540	3605	0.5074	0.4695	0.4135	0.557
2002	0.7191	0.6692	0.5944	0.550	3701	0.2672	0.2483	0.2204	0.552
2004	0.9173	0.8529	0.7536	0.575	3702	0.4288	0.3982	0.3516	0.579
2007	0.4876	0.4536	0.4032	0.544	3708	0.5698	0.5277	0.4662	0.546
2008	0.3074	0.2862	0.2562	0.511	3802	0.1960	0.1824	0.1612	0.584
2009	0.3874	0.3616	0.3216	0.579	3808	0.4003	0.3705	0.3285	0.512
2101	0.6318	0.5888	0.5258	0.529	3901	0.1713	0.1608	0.1432	0.622
2102	0.5212	0.4862	0.4308	0.588	3902	0.4549	0.4247	0.3790	0.558
2104	0.3335	0.3135	0.2811	0.590	3903	1.0700	1.0036	0.9024	0.545

Class	((2004))			Primary Ratio	Class	((2004))			Primary Ratio
	2005	2006	2007			2005	2006	2007	
3905	0.1539	0.1445	0.1290	0.598	5201	0.3942	0.3658	0.3236	0.559
3906	0.4859	0.4535	0.4028	0.574	5204	0.8403	0.7807	0.6988	0.486
3909	0.2632	0.2462	0.2190	0.603	5206	0.3796	0.3511	0.3109	0.527
4002	1.2877	1.1863	1.0410	0.535	5207	0.1725	0.1620	0.1445	0.613
4101	0.3152	0.2927	0.2596	0.547	5208	0.7596	0.7068	0.6299	0.535
4103	0.4645	0.4337	0.3840	0.612	5209	0.6645	0.6183	0.5530	0.510
4107	0.1570	0.1461	0.1300	0.543	5300	0.1122	0.1041	0.0915	0.598
4108	0.1559	0.1453	0.1290	0.568	5301	0.0361	0.0336	0.0296	0.599
4109	0.1966	0.1831	0.1633	0.538	5302	0.0176	0.0165	0.0146	0.552
4201	0.6706	0.6153	0.5360	0.545	5305	0.0536	0.0501	0.0444	0.630
4301	0.6200	0.5796	0.5157	0.581	5306	0.0627	0.0584	0.0517	0.623
4302	0.6562	0.6092	0.5379	0.569	5307	0.5669	0.5238	0.4590	0.569
4304	0.9406	0.8791	0.7859	0.545	5308	0.0778	0.0724	0.0643	0.575
4305	1.1533	1.0632	0.9289	0.566	6103	0.0821	0.0770	0.0685	0.626
4401	0.3874	0.3624	0.3269	0.511	6104	0.3599	0.3361	0.2984	0.593
4402	0.8352	0.7777	0.6861	0.601	6105	0.3507	0.3250	0.2872	0.552
4404	0.5295	0.4936	0.4385	0.572	6107	0.1384	0.1304	0.1176	0.604
4501	0.1860	0.1741	0.1546	0.630	6108	0.4554	0.4257	0.3781	0.599
4502	0.0384	0.0360	0.0324	0.542	6109	0.0966	0.0897	0.0795	0.563
4504	0.1105	0.1037	0.0925	0.630	6110	0.6119	0.5696	0.5051	0.563
4601	0.7222	0.6716	0.5962	0.546	6120	0.2751	0.2555	0.2263	0.556
4802	0.3232	0.3027	0.2724	0.517	6121	0.3582	0.3325	0.2938	0.561
4803	0.3087	0.2906	0.2609	0.588	6201	0.2834	0.2631	0.2355	0.494
4804	0.5167	0.4821	0.4270	0.595	6202	0.6046	0.5644	0.5053	0.536
4805	0.2888	0.2703	0.2405	0.594	6203	0.1034	0.0974	0.0869	0.666
4806	0.0578	0.0541	0.0484	0.552	6204	0.1201	0.1124	0.1003	0.593
4808	0.4734	0.4427	0.3978	0.518	6205	0.2643	0.2462	0.2182	0.578
4809	0.3614	0.3384	0.3015	0.588	6206	0.2281	0.2127	0.1887	0.582
4810	0.1385	0.1302	0.1168	0.587	6207	1.0525	0.9947	0.9058	0.534
4811	0.2846	0.2672	0.2396	0.588	6208	0.2366	0.2225	0.1996	0.586
4812	0.3995	0.3727	0.3304	0.599	6209	0.3178	0.2973	0.2650	0.584
4813	0.1526	0.1432	0.1283	0.576	6301	0.1238	0.1143	0.1014	0.477
4900	0.2284	0.2107	0.1881	0.434	6302	0.1972	0.1840	0.1634	0.586
4901	0.0657	0.0608	0.0541	0.517	6303	0.0669	0.0621	0.0552	0.553
4902	0.1097	0.1017	0.0894	0.581	6304	0.4084	0.3835	0.3423	0.601
4903	0.1616	0.1497	0.1305	0.635	6305	0.1047	0.0980	0.0873	0.605
4904	0.0271	0.0253	0.0225	0.590	6306	0.3047	0.2833	0.2509	0.569
4905	0.3739	0.3510	0.3136	0.590	6308	0.0668	0.0622	0.0550	0.591
4906	0.0949	0.0881	0.0775	0.597	6309	0.1972	0.1840	0.1634	0.586
4907	0.0515	0.0480	0.0429	0.568	6402	0.2770	0.2585	0.2281	0.627
4908	0.0751	0.0709	0.0648	0.571	6403	0.1789	0.1677	0.1495	0.598
4909	0.0368	0.0350	0.0326	0.541	6404	0.2430	0.2271	0.2022	0.581
4910	0.4473	0.4169	0.3724	0.526	6405	0.5316	0.4928	0.4368	0.540
4911	0.0567	0.0528	0.0472	0.529	6406	0.1219	0.1143	0.1016	0.611
5001	5.5327	5.0944	4.5401	0.426	6407	0.2737	0.2555	0.2267	0.590
5002	0.5848	0.5412	0.4751	0.578	6408	0.3954	0.3674	0.3253	0.572
5003	1.9036	1.7553	1.5641	0.438	6409	0.7155	0.6613	0.5842	0.529
5004	0.8179	0.7624	0.6859	0.478	6410	0.2759	0.2572	0.2292	0.567
5005	0.5412	0.5010	0.4474	0.460	6501	0.1677	0.1562	0.1377	0.611
5006	1.3323	1.2287	1.0987	0.417	6502	0.0351	0.0327	0.0291	0.575
5101	0.8723	0.8090	0.7124	0.576	6503	0.0733	0.0675	0.0592	0.548
5103	0.7195	0.6722	0.5982	0.587	6504	0.3872	0.3636	0.3242	0.619
5106	0.7195	0.6722	0.5982	0.587	6505	0.1045	0.0985	0.0885	0.619
5108	0.8745	0.8153	0.7217	0.599	6506	0.1074	0.1005	0.0894	0.607
5109	0.5085	0.4712	0.4172	0.542	6509	0.3630	0.3398	0.3027	0.590

Class	((2004)) <u>2005</u>	((2005)) <u>2006</u>	((2006)) <u>2007</u>	Primary Ratio	Class	((2004)) <u>2005</u>	((2005)) <u>2006</u>	((2006)) <u>2007</u>	Primary Ratio
6510	<u>0.4305</u>	<u>0.3978</u>	<u>0.3534</u>	<u>0.479</u>	<u>7201</u>	<u>1.4584</u>	<u>1.3430</u>	<u>1.1735</u>	<u>0.550</u>
6511	<u>0.3804</u>	<u>0.3557</u>	<u>0.3159</u>	<u>0.594</u>	<u>7202</u>	<u>0.0307</u>	<u>0.0284</u>	<u>0.0250</u>	<u>0.540</u>
6512	<u>0.1878</u>	<u>0.1750</u>	<u>0.1553</u>	<u>0.550</u>	<u>7203</u>	<u>0.1257</u>	<u>0.1192</u>	<u>0.1084</u>	<u>0.610</u>
6601	<u>0.1901</u>	<u>0.1775</u>	<u>0.1583</u>	<u>0.564</u>	<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
6602	<u>0.5142</u>	<u>0.4798</u>	<u>0.4270</u>	<u>0.560</u>	<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
6603	<u>0.3317</u>	<u>0.3080</u>	<u>0.2721</u>	<u>0.569</u>	<u>7301</u>	<u>0.4674</u>	<u>0.4370</u>	<u>0.3929</u>	<u>0.514</u>
6604	<u>0.0854</u>	<u>0.0797</u>	<u>0.0705</u>	<u>0.611</u>	<u>7302</u>	<u>0.9576</u>	<u>0.8954</u>	<u>0.8032</u>	<u>0.525</u>
6605	<u>0.3130</u>	<u>0.2938</u>	<u>0.2628</u>	<u>0.610</u>	<u>7307</u>	<u>0.4681</u>	<u>0.4376</u>	<u>0.3909</u>	<u>0.550</u>
6607	<u>0.1644</u>	<u>0.1534</u>	<u>0.1362</u>	<u>0.570</u>	<u>7308</u>	<u>0.3471</u>	<u>0.3262</u>	<u>0.2919</u>	<u>0.612</u>
6608	<u>0.4807</u>	<u>0.4406</u>	<u>0.3900</u>	<u>0.442</u>	<u>7309</u>	<u>0.2595</u>	<u>0.2438</u>	<u>0.2181</u>	<u>0.596</u>
6620	<u>3.8473</u>	<u>3.5456</u>	<u>3.0606</u>	<u>0.640</u>	<u>7400</u>	<u>1.4584</u>	<u>1.3430</u>	<u>1.1735</u>	<u>0.550</u>
6704	<u>0.1581</u>	<u>0.1469</u>	<u>0.1292</u>	<u>0.600</u>					
6705	<u>0.7956</u>	<u>0.7499</u>	<u>0.6737</u>	<u>0.600</u>					
6706	<u>0.3031</u>	<u>0.2847</u>	<u>0.2563</u>	<u>0.546</u>					
6707	<u>4.1884</u>	<u>3.9195</u>	<u>3.4488</u>	<u>0.705</u>					
6708	<u>7.9211</u>	<u>7.5419</u>	<u>7.0054</u>	<u>0.462</u>					
6709	<u>0.2830</u>	<u>0.2648</u>	<u>0.2353</u>	<u>0.603</u>					
6801	<u>0.6088</u>	<u>0.5619</u>	<u>0.4916</u>	<u>0.591</u>					
6802	<u>0.5230</u>	<u>0.4859</u>	<u>0.4272</u>	<u>0.604</u>					
6803	<u>0.7822</u>	<u>0.7206</u>	<u>0.6484</u>	<u>0.376</u>					
6804	<u>0.2990</u>	<u>0.2783</u>	<u>0.2468</u>	<u>0.577</u>					
6809	<u>4.7269</u>	<u>4.4272</u>	<u>3.9629</u>	<u>0.578</u>					
6901	<u>0.0172</u>	<u>0.0175</u>	<u>0.0176</u>	<u>0.709</u>					
6902	<u>0.9048</u>	<u>0.8310</u>	<u>0.7366</u>	<u>0.440</u>					
6903	<u>6.1881</u>	<u>5.7401</u>	<u>5.2448</u>	<u>0.336</u>					
6904	<u>0.4600</u>	<u>0.4218</u>	<u>0.3616</u>	<u>0.635</u>					
6905	<u>0.3958</u>	<u>0.3654</u>	<u>0.3181</u>	<u>0.617</u>					
6906	<u>0.1623</u>	<u>0.1606</u>	<u>0.1526</u>	<u>0.699</u>					
6907	<u>1.2851</u>	<u>1.1955</u>	<u>1.0596</u>	<u>0.558</u>					
6908	<u>0.4423</u>	<u>0.4105</u>	<u>0.3621</u>	<u>0.574</u>					
6909	<u>0.1163</u>	<u>0.1087</u>	<u>0.0965</u>	<u>0.598</u>					
7100	<u>0.0307</u>	<u>0.0286</u>	<u>0.0258</u>	<u>0.503</u>					
7101	<u>0.0221</u>	<u>0.0206</u>	<u>0.0186</u>	<u>0.473</u>					
7102	<u>4.1506</u>	<u>3.9492</u>	<u>3.6001</u>	<u>0.589</u>					
7103	<u>0.6377</u>	<u>0.5888</u>	<u>0.5140</u>	<u>0.584</u>					
7104	<u>0.0315</u>	<u>0.0293</u>	<u>0.0258</u>	<u>0.626</u>					
7105	<u>0.0328</u>	<u>0.0305</u>	<u>0.0269</u>	<u>0.635</u>					
7106	<u>0.2119</u>	<u>0.1981</u>	<u>0.1751</u>	<u>0.620</u>					
7107	<u>0.2226</u>	<u>0.2096</u>	<u>0.1891</u>	<u>0.577</u>					
7108	<u>0.2003</u>	<u>0.1879</u>	<u>0.1677</u>	<u>0.599</u>					
7109	<u>0.1407</u>	<u>0.1316</u>	<u>0.1167</u>	<u>0.618</u>					
7110	<u>0.3188</u>	<u>0.2949</u>	<u>0.2608</u>	<u>0.517</u>					
7111	<u>0.3786</u>	<u>0.3492</u>	<u>0.3086</u>	<u>0.503</u>					
7112	<u>0.6456</u>	<u>0.6027</u>	<u>0.5368</u>	<u>0.572</u>					
7113	<u>0.3756</u>	<u>0.3519</u>	<u>0.3141</u>	<u>0.579</u>					
7114	<u>0.4994</u>	<u>0.4676</u>	<u>0.4141</u>	<u>0.624</u>					
7115	<u>0.6038</u>	<u>0.5652</u>	<u>0.5024</u>	<u>0.600</u>					
7116	<u>0.6727</u>	<u>0.6273</u>	<u>0.5560</u>	<u>0.573</u>					
7117	<u>1.6959</u>	<u>1.5800</u>	<u>1.3943</u>	<u>0.605</u>					
7118	<u>1.3988</u>	<u>1.3064</u>	<u>1.1618</u>	<u>0.575</u>					
7119	<u>1.3365</u>	<u>1.2407</u>	<u>1.0908</u>	<u>0.590</u>					
7120	<u>5.8516</u>	<u>5.4438</u>	<u>4.8438</u>	<u>0.538</u>					
7121	<u>5.4390</u>	<u>5.0611</u>	<u>4.5060</u>	<u>0.537</u>					
7122	<u>0.5372</u>	<u>0.5032</u>	<u>0.4469</u>	<u>0.616</u>					
7200	<u>1.2220</u>	<u>1.1259</u>	<u>0.9824</u>	<u>0.570</u>					

**Expected Loss Rates in Dollars Per Sq. Ft.
of Wallboard Installed**

Class	((2004)) <u>2005</u>	((2005)) <u>2006</u>	((2006)) <u>2007</u>	Primary Ratio
((0540)	<u>0.0218</u>	<u>0.0186</u>	<u>0.0158</u>	<u>0.463</u>
0541	<u>0.0129</u>	<u>0.0109</u>	<u>0.0093</u>	<u>0.442</u>
0550	<u>0.0282</u>	<u>0.0235</u>	<u>0.0200</u>	<u>0.385</u>
0551	<u>0.0167</u>	<u>0.0140</u>	<u>0.0119</u>	<u>0.392</u>)
0540	<u>0.0185</u>	<u>0.0170</u>	<u>0.0151</u>	<u>0.487</u>
0541	<u>0.0106</u>	<u>0.0098</u>	<u>0.0087</u>	<u>0.465</u>
0550	<u>0.0223</u>	<u>0.0205</u>	<u>0.0183</u>	<u>0.400</u>
0551	<u>0.0137</u>	<u>0.0126</u>	<u>0.0112</u>	<u>0.416</u>

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-890 Table IV.

**Maximum experience modifications
for firms with no compensable accidents:**

Effective ((1/1/2008)) 1/1/2009

Expected Loss Range	Maximum Experience Modification
((+ 6,636	<u>0.90</u>
6,637 - 8,104	<u>0.89</u>
8,105 - 8,977	<u>0.88</u>
8,978 - 9,785	<u>0.87</u>
9,786 - 10,637	<u>0.86</u>
10,638 - 11,530	<u>0.85</u>
11,531 - 12,316	<u>0.84</u>
12,317 - 13,113	<u>0.83</u>
13,114 - 13,944	<u>0.82</u>
13,945 - 14,808	<u>0.81</u>
14,809 - 15,706	<u>0.80</u>
15,707 - 16,638	<u>0.79</u>
16,639 - 17,606	<u>0.78</u>
17,607 - 18,608	<u>0.77</u>
18,609 - 19,646	<u>0.76</u>

Expected Loss Range			Maximum Experience Modification
19,647	-	20,719	0.75
20,720	-	21,828	0.74
21,829	-	22,973	0.73
22,974	-	24,156	0.72
24,157	-	25,374	0.71
25,375	-	26,631	0.70
26,632	-	27,924	0.69
27,925	-	29,254	0.68
29,255	-	30,623	0.67
30,624	-	32,027	0.66
32,028	-	33,471	0.65
33,472	-	35,721	0.64
35,722	-	38,782	0.63
38,783	-	42,319	0.62
42,320	-	49,197	0.61
49,198	& Over	0.60))	
1	-	6,503	0.90
6,504	-	7,942	0.89
7,943	-	8,797	0.88
8,798	-	9,589	0.87
9,590	-	10,424	0.86
10,425	-	11,299	0.85
11,300	-	12,070	0.84
12,071	-	12,851	0.83
12,852	-	13,665	0.82
13,666	-	14,512	0.81
14,513	-	15,392	0.80
15,393	-	16,305	0.79
16,306	-	17,254	0.78
17,255	-	18,236	0.77
18,237	-	19,253	0.76
19,254	-	20,305	0.75
20,306	-	21,391	0.74
21,392	-	22,514	0.73
22,515	-	23,673	0.72
23,674	-	24,867	0.71
24,868	-	26,098	0.70
26,099	-	27,366	0.69
27,367	-	28,669	0.68
28,670	-	30,011	0.67
30,012	-	31,386	0.66
31,387	-	32,802	0.65
32,803	-	35,007	0.64
35,008	-	38,006	0.63
38,007	-	41,473	0.62

Expected Loss Range			Maximum Experience Modification
41,474	-	48,213	0.61
48,214	& Over		0.60

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry. Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

Base Rates Effective January 1, ((2008)) 2009		
Class	Accident Fund	Medical Aid Fund
((0101	+3.976	0.7569
0103	+8.375	1.0211
0104	+1.047	0.5571
0105	+3.287	0.9325
0107	+3.718	0.6993
0108	+1.047	0.5571
0112	0.8199	0.4747
0201	+2.8463	+2.139
0202	3.4002	+1.8451
0210	+3.188	0.6333
0212	+5.001	0.7574
0214	+5.157	0.7077
0217	+1.1863	0.6515
0219	+1.0164	0.6697
0301	0.6154	0.4647
0302	+2.2113	0.9929
0303	2.1198	0.9334
0306	+1.1251	0.5446
0307	+1.0570	0.5909
0308	0.5121	0.4310
0403	+7.332	+1.1790
0502	+7.183	0.8134
0504	+6.701	1.0241
0507	+2.9215	+1.8753
0508	2.3191	0.9933
0509	+1.9060	0.9417
0510	+5.905	+1.0234
0511	+8.421	0.9551
0512	+7.354	0.8743
0513	0.8687	0.4856
0514	2.0708	1.1353
0516	+7.840	0.9736
0517	4.9147	+1.1740

Base Rates Effective January 1, ((2008)) <u>2009</u>			Base Rates Effective January 1, ((2008)) <u>2009</u>		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
0518	1.7564	0.8790	2007	0.4853	0.3658
0519	2.4405	1.2485	2008	0.3264	0.2425
0521	0.6078	0.3663	2009	0.3807	0.3486
0601	0.7082	0.4141	2101	0.6614	0.5199
0602	0.9060	0.4596	2102	0.5095	0.4368
0603	1.1671	0.5437	2104	0.3148	0.2351
0604	0.9791	0.7505	2105	0.5806	0.4454
0606	0.5448	0.4088	2106	0.4134	0.3594
0607	0.5506	0.3746	2201	0.2381	0.1895
0608	0.3929	0.2581	2202	0.7380	0.5282
0701	2.5420	0.7997	2203	0.4515	0.3858
0803	0.4740	0.3431	2204	0.2381	0.1895
0901	1.7564	0.8790	2401	0.5140	0.3497
1002	1.0110	0.6969	2903	0.6150	0.5222
1003	0.8081	0.5610	2904	0.7154	0.5709
1004	0.5663	0.3293	2905	0.5264	0.4830
1005	9.2832	4.8682	2906	0.3266	0.2656
1007	0.4011	0.2306	2907	0.5072	0.4335
1101	0.7373	0.5220	2908	1.1021	0.6958
1102	1.4486	0.8079	2909	0.3745	0.3222
1103	1.2252	0.8425	3101	0.9795	0.5905
1104	0.5116	0.4459	3102	0.2751	0.2146
1105	0.9491	0.6070	3103	0.5695	0.4117
1106	0.3162	0.3128	3104	0.6427	0.4175
1108	0.6628	0.4866	3105	0.7554	0.5842
1109	1.4961	1.1065	3303	0.4405	0.3380
1301	0.6997	0.3829	3304	0.4313	0.4127
1303	0.2287	0.1676	3309	0.4287	0.3277
1304	0.0295	0.0220	3402	0.5440	0.3996
1305	0.4300	0.3236	3403	0.2069	0.1570
1401	0.4645	0.3825	3404	0.4833	0.3932
1404	0.7597	0.5933	3405	0.3089	0.2430
1405	0.6140	0.4667	3406	0.1892	0.1884
1407	0.5419	0.4532	3407	0.7525	0.4867
1501	0.6215	0.4104	3408	0.1849	0.1446
1507	0.5948	0.3963	3409	0.1583	0.1501
1701	0.9796	0.6133	3410	0.2708	0.2416
1702	2.5100	1.0602	3411	0.5005	0.3348
1703	1.0304	0.3841	3412	0.6373	0.3612
1704	0.9796	0.6133	3414	0.5950	0.4029
1801	0.5447	0.3893	3415	0.8608	0.5840
1802	0.7773	0.5017	3501	1.0809	0.7812
2002	0.7131	0.5700	3503	0.2621	0.3000
2004	0.9479	0.7397	3506	1.2340	0.5977

Base Rates Effective January 1, ((2008)) 2009			Base Rates Effective January 1, ((2008)) 2009		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
3509	0.3815	0.3569	4808	0.4795	0.4017
3510	0.3560	0.2995	4809	0.3456	0.3350
3511	0.7162	0.5477	4810	0.1255	0.1364
3512	0.3240	0.3196	4811	0.2483	0.2695
3513	0.4304	0.3916	4812	0.3805	0.3469
3602	0.1277	0.1074	4813	0.1392	0.1463
3603	0.4635	0.3881	4900	0.3535	0.1786
3604	0.7732	0.6913	4901	0.0796	0.0546
3605	0.5549	0.3756	4902	0.1128	0.0840
3701	0.2751	0.2146	4903	0.1628	0.1238
3702	0.4540	0.3592	4904	0.0275	0.0256
3708	0.6557	0.4400	4905	0.3193	0.3378
3802	0.1974	0.1626	4906	0.0948	0.0770
3808	0.4560	0.2873	4907	0.0502	0.0458
3901	0.1501	0.1667	4908	0.0765	0.1166
3902	0.4621	0.4047	4909	0.0369	0.0649
3903	1.0038	0.9838	4910	0.4665	0.3703
3905	0.1408	0.1541	4911	0.0632	0.0513
3906	0.4536	0.3941	5001	6.3769	3.0302
3909	0.2394	0.2380	5002	0.6271	0.4375
4002	1.5407	0.8397	5003	2.3266	1.1565
4101	0.3230	0.2363	5004	0.9026	0.6638
4103	0.4079	0.4155	5005	0.6307	0.3616
4107	0.1664	0.1351	5006	1.7478	0.8728
4108	0.1476	0.1286	5101	0.9144	0.6798
4109	0.2091	0.1674	5103	0.7143	0.6546
4201	0.8008	0.4084	5106	0.7143	0.6546
4301	0.6214	0.5537	5108	0.8699	0.7534
4302	0.6824	0.5197	5109	0.5894	0.4109
4304	0.9661	0.8251	5201	0.4337	0.3134
4305	1.3483	0.7513	5204	0.9380	0.6509
4401	0.3929	0.3434	5206	0.4408	0.2832
4402	0.7973	0.6825	5207	0.1506	0.1685
4404	0.5516	0.4728	5208	0.8031	0.6183
4501	0.1757	0.1839	5209	0.7464	0.5384
4502	0.0386	0.0376	5300	0.1128	0.0840
4504	0.0999	0.1190	5301	0.0347	0.0302
4601	0.7442	0.5735	5302	0.0186	0.0156
4801	1.4067	1.8451	5305	0.0482	0.0494
4802	0.2945	0.2696	5306	0.0583	0.0557
4803	0.2465	0.2800	5307	0.5980	0.3891
4804	0.5029	0.4312	6103	0.0732	0.0830
4805	0.2677	0.2642	6104	0.3431	0.3189
4806	0.0552	0.0507	6105	0.3640	0.2618

Base Rates Effective January 1, ((2008)) 2009			Base Rates Effective January 1, ((2008)) 2009		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
6107	0.1215	0.1500	6603	0.3385	0.2516
6108	0.4206	0.4159	6604	0.0803	0.0738
6109	0.0994	0.0777	6605	0.2745	0.3171
6110	0.6268	0.4957	6607	0.1653	0.1395
6120	0.2918	0.2190	6608	0.6480	0.2810
6121	0.3647	0.2738	6620	4.4945	3.1943
6201	0.3310	0.2269	6704	0.1639	0.1298
6202	0.6277	0.5453	6705	0.6547	0.8704
6203	0.0812	0.1155	6706	0.2846	0.2813
6204	0.1160	0.1170	6707	3.4185	3.7372
6205	0.2468	0.2154	6708	6.6988	8.9057
6206	0.2236	0.1936	6709	0.2625	0.2703
6207	0.8819	1.0671	6801	0.6603	0.4714
6208	0.2100	0.2356	6802	0.4751	0.4076
6209	0.2951	0.2877	6803	1.0216	0.4912
6301	0.1496	0.0818	6804	0.2899	0.2336
6302	0.1813	0.1700	6809	4.5185	4.5429
6303	0.0705	0.0553	6901	0.0000	0.0659
6304	0.3554	0.3852	6902	1.1946	0.5072
6305	0.0904	0.0974	6903	8.1636	4.3648
6306	0.3243	0.2626	6904	0.4812	0.2802
6308	0.0653	0.0559	6905	0.4155	0.2907
6309	0.1813	0.1700	6906	0.0000	0.2907
6402	0.2613	0.2535	6907	1.2985	1.0152
6403	0.1585	0.1652	6908	0.4647	0.3585
6404	0.2190	0.2029	6909	0.1126	0.1069
6405	0.5873	0.4198	7100	0.0314	0.0269
6406	0.1114	0.1138	7101	0.0244	0.0193
6407	0.2650	0.2341	7102	2.9961	4.7722
6408	0.4086	0.3195	7103	0.6616	0.4115
6409	0.8920	0.5342	7104	0.0300	0.0270
6410	0.2815	0.2407	7105	0.0314	0.0288
6501	0.1604	0.1403	7106	0.1847	0.1800
6502	0.0377	0.0327	7107	0.1957	0.2287
6503	0.0870	0.0517	7108	0.1666	0.1858
6504	0.3477	0.3881	7109	0.1230	0.1242
6505	0.0897	0.1099	7110	0.3611	0.2224
6506	0.0973	0.0999	7111	0.4214	0.2532
6509	0.3370	0.3377	7112	0.6291	0.5454
6510	0.5078	0.2888	7113	0.3275	0.3351
6511	0.3361	0.3188	7114	0.4767	0.4703
6512	0.2180	0.1789	7115	0.5213	0.5177
6601	0.1786	0.1643	7116	0.6503	0.5550
6602	0.4819	0.4112	7117	1.6093	1.4568

Base Rates Effective January 1, ((2008)) 2009				Base Rates Effective January 1, ((2008)) 2009			
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund		
7118	<u>1.2987</u>	<u>1.1337</u>	<u>0511</u>	<u>1.8024</u>	<u>0.9758</u>		
7119	<u>1.3315</u>	<u>1.0089</u>	<u>0512</u>	<u>1.8408</u>	<u>0.9556</u>		
7120	<u>6.1411</u>	<u>4.7003</u>	<u>0513</u>	<u>0.8190</u>	<u>0.4795</u>		
7121	<u>5.7028</u>	<u>4.3816</u>	<u>0514</u>	<u>2.1075</u>	<u>1.1506</u>		
7122	<u>0.4964</u>	<u>0.5236</u>	<u>0516</u>	<u>1.7158</u>	<u>0.9922</u>		
7200	<u>1.2949</u>	<u>0.7366</u>	<u>0517</u>	<u>2.0148</u>	<u>1.2441</u>		
7201	<u>1.6186</u>	<u>0.9208</u>	<u>0518</u>	<u>1.6702</u>	<u>0.8978</u>		
7202	<u>0.0370</u>	<u>0.0236</u>	<u>0519</u>	<u>2.2845</u>	<u>1.2724</u>		
7203	<u>0.1014</u>	<u>0.1418</u>	<u>0521</u>	<u>0.6278</u>	<u>0.3759</u>		
7204	<u>0.0000</u>	<u>0.0000</u>	<u>0601</u>	<u>0.6876</u>	<u>0.4100</u>		
7205	<u>0.0000</u>	<u>0.0000</u>	<u>0602</u>	<u>0.8974</u>	<u>0.4551</u>		
7301	<u>0.4920</u>	<u>0.4202</u>	<u>0603</u>	<u>1.2107</u>	<u>0.5791</u>		
7302	<u>0.9354</u>	<u>0.8159</u>	<u>0604</u>	<u>1.0350</u>	<u>0.7875</u>		
7307	<u>0.4591</u>	<u>0.4187</u>	<u>0606</u>	<u>0.5603</u>	<u>0.4171</u>		
7308	<u>0.2779</u>	<u>0.3367</u>	<u>0607</u>	<u>0.5815</u>	<u>0.3832</u>		
7309	<u>0.2294</u>	<u>0.2507</u>	<u>0608</u>	<u>0.3748</u>	<u>0.2554</u>		
7400	<u>1.6186</u>	<u>0.9208))</u>	<u>0701</u>	<u>2.5621</u>	<u>0.8113</u>		
0101	<u>1.4201</u>	<u>0.7919</u>	<u>0803</u>	<u>0.4786</u>	<u>0.3529</u>		
0103	<u>1.8731</u>	<u>1.0883</u>	<u>0901</u>	<u>1.6702</u>	<u>0.8978</u>		
0104	<u>0.9743</u>	<u>0.5776</u>	<u>1002</u>	<u>1.0846</u>	<u>0.7437</u>		
0105	<u>1.3340</u>	<u>0.9448</u>	<u>1003</u>	<u>0.8101</u>	<u>0.5813</u>		
0107	<u>1.5385</u>	<u>0.7554</u>	<u>1004</u>	<u>0.5915</u>	<u>0.3431</u>		
0108	<u>0.9743</u>	<u>0.5776</u>	<u>1005</u>	<u>9.5086</u>	<u>5.0081</u>		
0112	<u>0.7665</u>	<u>0.4485</u>	<u>1007</u>	<u>0.3929</u>	<u>0.2295</u>		
0201	<u>3.0830</u>	<u>1.2529</u>	<u>1101</u>	<u>0.7735</u>	<u>0.5553</u>		
0202	<u>3.4809</u>	<u>1.8499</u>	<u>1102</u>	<u>1.5531</u>	<u>0.8588</u>		
0210	<u>1.3189</u>	<u>0.6465</u>	<u>1103</u>	<u>1.3179</u>	<u>0.8681</u>		
0212	<u>1.5467</u>	<u>0.7824</u>	<u>1104</u>	<u>0.5364</u>	<u>0.4678</u>		
0214	<u>1.6053</u>	<u>0.7553</u>	<u>1105</u>	<u>0.9318</u>	<u>0.5859</u>		
0217	<u>1.1233</u>	<u>0.6366</u>	<u>1106</u>	<u>0.3199</u>	<u>0.3192</u>		
0219	<u>1.1082</u>	<u>0.7109</u>	<u>1108</u>	<u>0.6549</u>	<u>0.4734</u>		
0301	<u>0.6143</u>	<u>0.4811</u>	<u>1109</u>	<u>1.5631</u>	<u>1.1391</u>		
0302	<u>2.3051</u>	<u>1.0352</u>	<u>1301</u>	<u>0.6644</u>	<u>0.3747</u>		
0303	<u>2.1201</u>	<u>0.9602</u>	<u>1303</u>	<u>0.2283</u>	<u>0.1678</u>		
0306	<u>1.1379</u>	<u>0.5825</u>	<u>1304</u>	<u>0.0313</u>	<u>0.0228</u>		
0307	<u>1.0150</u>	<u>0.5969</u>	<u>1305</u>	<u>0.4609</u>	<u>0.3486</u>		
0308	<u>0.5073</u>	<u>0.4317</u>	<u>1401</u>	<u>0.4643</u>	<u>0.3943</u>		
0403	<u>1.8060</u>	<u>1.1964</u>	<u>1404</u>	<u>0.8011</u>	<u>0.6283</u>		
0502	<u>1.5731</u>	<u>0.7752</u>	<u>1405</u>	<u>0.6416</u>	<u>0.4908</u>		
0504	<u>1.7700</u>	<u>1.1499</u>	<u>1407</u>	<u>0.4924</u>	<u>0.4428</u>		
0507	<u>3.0409</u>	<u>2.0125</u>	<u>1501</u>	<u>0.6417</u>	<u>0.4109</u>		
0508	<u>2.2983</u>	<u>1.0135</u>	<u>1507</u>	<u>0.6234</u>	<u>0.4252</u>		
0509	<u>2.0795</u>	<u>1.0417</u>	<u>1701</u>	<u>0.9739</u>	<u>0.6308</u>		
0510	<u>1.7460</u>	<u>1.1258</u>	<u>1702</u>	<u>2.5254</u>	<u>1.0630</u>		

		Base Rates Effective January 1, ((2008)) 2009				Base Rates Effective January 1, ((2008)) 2009	
	Accident	Medical Aid		Accident	Medical Aid		Medical Aid
Class	Fund	Fund	Class	Fund	Fund	Class	Fund
<u>1703</u>	<u>1.0537</u>	<u>0.3926</u>	<u>3412</u>	<u>0.6489</u>	<u>0.3729</u>		
<u>1704</u>	<u>0.9739</u>	<u>0.6308</u>	<u>3414</u>	<u>0.5931</u>	<u>0.4101</u>		
<u>1801</u>	<u>0.5388</u>	<u>0.3835</u>	<u>3415</u>	<u>0.8920</u>	<u>0.6069</u>		
<u>1802</u>	<u>0.7997</u>	<u>0.5498</u>	<u>3501</u>	<u>1.1007</u>	<u>0.7991</u>		
<u>2002</u>	<u>0.7511</u>	<u>0.6038</u>	<u>3503</u>	<u>0.2598</u>	<u>0.3053</u>		
<u>2004</u>	<u>0.9427</u>	<u>0.7552</u>	<u>3506</u>	<u>1.1511</u>	<u>0.6000</u>		
<u>2007</u>	<u>0.5193</u>	<u>0.4051</u>	<u>3509</u>	<u>0.3861</u>	<u>0.3638</u>		
<u>2008</u>	<u>0.3369</u>	<u>0.2565</u>	<u>3510</u>	<u>0.3533</u>	<u>0.3053</u>		
<u>2009</u>	<u>0.3815</u>	<u>0.3530</u>	<u>3511</u>	<u>0.6999</u>	<u>0.5424</u>		
<u>2101</u>	<u>0.6651</u>	<u>0.5401</u>	<u>3512</u>	<u>0.3329</u>	<u>0.3418</u>		
<u>2102</u>	<u>0.5103</u>	<u>0.4543</u>	<u>3513</u>	<u>0.4440</u>	<u>0.4103</u>		
<u>2104</u>	<u>0.2978</u>	<u>0.3377</u>	<u>3602</u>	<u>0.1308</u>	<u>0.1085</u>		
<u>2105</u>	<u>0.5766</u>	<u>0.4591</u>	<u>3603</u>	<u>0.4577</u>	<u>0.3961</u>		
<u>2106</u>	<u>0.4157</u>	<u>0.3654</u>	<u>3604</u>	<u>0.7790</u>	<u>0.7499</u>		
<u>2201</u>	<u>0.2458</u>	<u>0.1994</u>	<u>3605</u>	<u>0.5653</u>	<u>0.3873</u>		
<u>2202</u>	<u>0.7393</u>	<u>0.5364</u>	<u>3701</u>	<u>0.2893</u>	<u>0.2229</u>		
<u>2203</u>	<u>0.4607</u>	<u>0.3990</u>	<u>3702</u>	<u>0.4543</u>	<u>0.3588</u>		
<u>2204</u>	<u>0.2458</u>	<u>0.1994</u>	<u>3708</u>	<u>0.6364</u>	<u>0.4331</u>		
<u>2401</u>	<u>0.5295</u>	<u>0.3538</u>	<u>3802</u>	<u>0.1999</u>	<u>0.1676</u>		
<u>2903</u>	<u>0.6258</u>	<u>0.5344</u>	<u>3808</u>	<u>0.4682</u>	<u>0.2971</u>		
<u>2904</u>	<u>0.7088</u>	<u>0.5718</u>	<u>3901</u>	<u>0.1501</u>	<u>0.1699</u>		
<u>2905</u>	<u>0.5638</u>	<u>0.5072</u>	<u>3902</u>	<u>0.4600</u>	<u>0.4107</u>		
<u>2906</u>	<u>0.3395</u>	<u>0.2840</u>	<u>3903</u>	<u>1.0222</u>	<u>1.0146</u>		
<u>2907</u>	<u>0.5290</u>	<u>0.4463</u>	<u>3905</u>	<u>0.1413</u>	<u>0.1547</u>		
<u>2908</u>	<u>1.0958</u>	<u>0.7203</u>	<u>3906</u>	<u>0.4769</u>	<u>0.4227</u>		
<u>2909</u>	<u>0.3813</u>	<u>0.3349</u>	<u>3909</u>	<u>0.2487</u>	<u>0.2507</u>		
<u>3101</u>	<u>0.8945</u>	<u>0.5634</u>	<u>4002</u>	<u>1.5304</u>	<u>0.8604</u>		
<u>3102</u>	<u>0.2893</u>	<u>0.2229</u>	<u>4101</u>	<u>0.3429</u>	<u>0.2565</u>		
<u>3103</u>	<u>0.5700</u>	<u>0.4152</u>	<u>4103</u>	<u>0.4425</u>	<u>0.4299</u>		
<u>3104</u>	<u>0.6574</u>	<u>0.4421</u>	<u>4107</u>	<u>0.1690</u>	<u>0.1352</u>		
<u>3105</u>	<u>0.7457</u>	<u>0.5906</u>	<u>4108</u>	<u>0.1595</u>	<u>0.1353</u>		
<u>3303</u>	<u>0.4440</u>	<u>0.3465</u>	<u>4109</u>	<u>0.2099</u>	<u>0.1680</u>		
<u>3304</u>	<u>0.4435</u>	<u>0.4226</u>	<u>4201</u>	<u>0.8231</u>	<u>0.4123</u>		
<u>3309</u>	<u>0.4256</u>	<u>0.3217</u>	<u>4301</u>	<u>0.5923</u>	<u>0.5603</u>		
<u>3402</u>	<u>0.5644</u>	<u>0.4175</u>	<u>4302</u>	<u>0.6974</u>	<u>0.5380</u>		
<u>3403</u>	<u>0.2136</u>	<u>0.1620</u>	<u>4304</u>	<u>0.9344</u>	<u>0.8358</u>		
<u>3404</u>	<u>0.5176</u>	<u>0.4135</u>	<u>4305</u>	<u>1.3197</u>	<u>0.7852</u>		
<u>3405</u>	<u>0.2979</u>	<u>0.2621</u>	<u>4401</u>	<u>0.4028</u>	<u>0.3654</u>		
<u>3406</u>	<u>0.2054</u>	<u>0.1967</u>	<u>4402</u>	<u>0.8173</u>	<u>0.6911</u>		
<u>3407</u>	<u>0.8455</u>	<u>0.5224</u>	<u>4404</u>	<u>0.5382</u>	<u>0.4726</u>		
<u>3408</u>	<u>0.1921</u>	<u>0.1522</u>	<u>4501</u>	<u>0.1749</u>	<u>0.1947</u>		
<u>3409</u>	<u>0.1584</u>	<u>0.1481</u>	<u>4502</u>	<u>0.0392</u>	<u>0.0374</u>		
<u>3410</u>	<u>0.2711</u>	<u>0.2471</u>	<u>4504</u>	<u>0.1011</u>	<u>0.1194</u>		
<u>3411</u>	<u>0.5181</u>	<u>0.3454</u>	<u>4601</u>	<u>0.7613</u>	<u>0.5948</u>		

Base Rates Effective January 1, ((2008)) 2009			Base Rates Effective January 1, ((2008)) 2009		
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
<u>4802</u>	<u>0.3222</u>	<u>0.2955</u>	<u>5306</u>	<u>0.0590</u>	<u>0.0576</u>
<u>4803</u>	<u>0.2626</u>	<u>0.3063</u>	<u>5307</u>	<u>0.6305</u>	<u>0.4024</u>
<u>4804</u>	<u>0.5044</u>	<u>0.4592</u>	<u>5308</u>	<u>0.0809</u>	<u>0.0687</u>
<u>4805</u>	<u>0.2692</u>	<u>0.2691</u>	<u>6103</u>	<u>0.0742</u>	<u>0.0842</u>
<u>4806</u>	<u>0.0566</u>	<u>0.0530</u>	<u>6104</u>	<u>0.3463</u>	<u>0.3269</u>
<u>4808</u>	<u>0.4804</u>	<u>0.4246</u>	<u>6105</u>	<u>0.3871</u>	<u>0.2718</u>
<u>4809</u>	<u>0.3350</u>	<u>0.3336</u>	<u>6107</u>	<u>0.1275</u>	<u>0.1596</u>
<u>4810</u>	<u>0.1237</u>	<u>0.1406</u>	<u>6108</u>	<u>0.4337</u>	<u>0.4229</u>
<u>4811</u>	<u>0.2627</u>	<u>0.2910</u>	<u>6109</u>	<u>0.1051</u>	<u>0.0807</u>
<u>4812</u>	<u>0.3909</u>	<u>0.3642</u>	<u>6110</u>	<u>0.6270</u>	<u>0.5057</u>
<u>4813</u>	<u>0.1411</u>	<u>0.1479</u>	<u>6120</u>	<u>0.2949</u>	<u>0.2233</u>
<u>4900</u>	<u>0.2965</u>	<u>0.1511</u>	<u>6121</u>	<u>0.3840</u>	<u>0.2842</u>
<u>4901</u>	<u>0.0758</u>	<u>0.0528</u>	<u>6201</u>	<u>0.3319</u>	<u>0.2288</u>
<u>4902</u>	<u>0.1184</u>	<u>0.0869</u>	<u>6202</u>	<u>0.6250</u>	<u>0.5460</u>
<u>4903</u>	<u>0.1678</u>	<u>0.1350</u>	<u>6203</u>	<u>0.0836</u>	<u>0.1150</u>
<u>4904</u>	<u>0.0268</u>	<u>0.0256</u>	<u>6204</u>	<u>0.1147</u>	<u>0.1158</u>
<u>4905</u>	<u>0.3333</u>	<u>0.3588</u>	<u>6205</u>	<u>0.2645</u>	<u>0.2269</u>
<u>4906</u>	<u>0.0983</u>	<u>0.0785</u>	<u>6206</u>	<u>0.2276</u>	<u>0.1997</u>
<u>4907</u>	<u>0.0518</u>	<u>0.0479</u>	<u>6207</u>	<u>0.9275</u>	<u>1.1319</u>
<u>4908</u>	<u>0.0770</u>	<u>0.1114</u>	<u>6208</u>	<u>0.2111</u>	<u>0.2389</u>
<u>4909</u>	<u>0.0373</u>	<u>0.0642</u>	<u>6209</u>	<u>0.3054</u>	<u>0.3003</u>
<u>4910</u>	<u>0.4714</u>	<u>0.3805</u>	<u>6301</u>	<u>0.1543</u>	<u>0.0837</u>
<u>4911</u>	<u>0.0611</u>	<u>0.0492</u>	<u>6303</u>	<u>0.0722</u>	<u>0.0561</u>
<u>5001</u>	<u>7.2480</u>	<u>3.4652</u>	<u>6304</u>	<u>0.3606</u>	<u>0.3977</u>
<u>5002</u>	<u>0.6387</u>	<u>0.4508</u>	<u>6305</u>	<u>0.0954</u>	<u>0.1005</u>
<u>5003</u>	<u>2.4263</u>	<u>1.2277</u>	<u>6306</u>	<u>0.3201</u>	<u>0.2588</u>
<u>5004</u>	<u>0.8974</u>	<u>0.6738</u>	<u>6308</u>	<u>0.0671</u>	<u>0.0581</u>
<u>5005</u>	<u>0.6526</u>	<u>0.3922</u>	<u>6309</u>	<u>0.1936</u>	<u>0.1780</u>
<u>5006</u>	<u>1.7310</u>	<u>0.8658</u>	<u>6402</u>	<u>0.2597</u>	<u>0.2501</u>
<u>5101</u>	<u>0.9327</u>	<u>0.6884</u>	<u>6403</u>	<u>0.1624</u>	<u>0.1733</u>
<u>5103</u>	<u>0.7072</u>	<u>0.6748</u>	<u>6404</u>	<u>0.2345</u>	<u>0.2224</u>
<u>5106</u>	<u>0.7072</u>	<u>0.6748</u>	<u>6405</u>	<u>0.5954</u>	<u>0.4214</u>
<u>5108</u>	<u>0.8683</u>	<u>0.7836</u>	<u>6406</u>	<u>0.1118</u>	<u>0.1183</u>
<u>5109</u>	<u>0.5732</u>	<u>0.4017</u>	<u>6407</u>	<u>0.2674</u>	<u>0.2463</u>
<u>5201</u>	<u>0.4313</u>	<u>0.3162</u>	<u>6408</u>	<u>0.4230</u>	<u>0.3305</u>
<u>5204</u>	<u>0.9572</u>	<u>0.6534</u>	<u>6409</u>	<u>0.8370</u>	<u>0.5244</u>
<u>5206</u>	<u>0.4430</u>	<u>0.2869</u>	<u>6410</u>	<u>0.2856</u>	<u>0.2492</u>
<u>5207</u>	<u>0.1518</u>	<u>0.1709</u>	<u>6501</u>	<u>0.1624</u>	<u>0.1442</u>
<u>5208</u>	<u>0.8149</u>	<u>0.6490</u>	<u>6502</u>	<u>0.0366</u>	<u>0.0309</u>
<u>5209</u>	<u>0.7339</u>	<u>0.5598</u>	<u>6503</u>	<u>0.0883</u>	<u>0.0534</u>
<u>5300</u>	<u>0.1172</u>	<u>0.0927</u>	<u>6504</u>	<u>0.3398</u>	<u>0.3873</u>
<u>5301</u>	<u>0.0371</u>	<u>0.0315</u>	<u>6505</u>	<u>0.0908</u>	<u>0.1183</u>
<u>5302</u>	<u>0.0185</u>	<u>0.0154</u>	<u>6506</u>	<u>0.1002</u>	<u>0.1021</u>
<u>5305</u>	<u>0.0500</u>	<u>0.0503</u>	<u>6509</u>	<u>0.3408</u>	<u>0.3423</u>

Base Rates Effective January 1, ((2008)) 2009		Base Rates Effective January 1, ((2008)) 2009			
Class	Accident Fund	Medical Aid Fund	Class	Accident Fund	Medical Aid Fund
<u>6510</u>	<u>0.5165</u>	<u>0.3006</u>	<u>7113</u>	<u>0.3484</u>	<u>0.3457</u>
<u>6511</u>	<u>0.3539</u>	<u>0.3415</u>	<u>7114</u>	<u>0.4421</u>	<u>0.4636</u>
<u>6512</u>	<u>0.1913</u>	<u>0.1532</u>	<u>7115</u>	<u>0.5541</u>	<u>0.5533</u>
<u>6601</u>	<u>0.1878</u>	<u>0.1707</u>	<u>7116</u>	<u>0.6570</u>	<u>0.5633</u>
<u>6602</u>	<u>0.5114</u>	<u>0.4383</u>	<u>7117</u>	<u>1.6550</u>	<u>1.4537</u>
<u>6603</u>	<u>0.3522</u>	<u>0.2687</u>	<u>7118</u>	<u>1.3613</u>	<u>1.2231</u>
<u>6604</u>	<u>0.0827</u>	<u>0.0777</u>	<u>7119</u>	<u>1.3686</u>	<u>1.0544</u>
<u>6605</u>	<u>0.2896</u>	<u>0.3348</u>	<u>7120</u>	<u>6.2512</u>	<u>4.8373</u>
<u>6607</u>	<u>0.1633</u>	<u>0.1429</u>	<u>7121</u>	<u>5.8067</u>	<u>4.5171</u>
<u>6608</u>	<u>0.6594</u>	<u>0.2789</u>	<u>7122</u>	<u>0.4794</u>	<u>0.5044</u>
<u>6620</u>	<u>4.0932</u>	<u>2.6961</u>	<u>7200</u>	<u>1.3937</u>	<u>0.8325</u>
<u>6704</u>	<u>0.1594</u>	<u>0.1301</u>	<u>7201</u>	<u>1.6940</u>	<u>0.9449</u>
<u>6705</u>	<u>0.6642</u>	<u>0.8191</u>	<u>7202</u>	<u>0.0359</u>	<u>0.0229</u>
<u>6706</u>	<u>0.2851</u>	<u>0.2866</u>	<u>7203</u>	<u>0.1029</u>	<u>0.1602</u>
<u>6707</u>	<u>3.7267</u>	<u>4.7882</u>	<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>
<u>6708</u>	<u>6.8366</u>	<u>9.4509</u>	<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>
<u>6709</u>	<u>0.2634</u>	<u>0.2708</u>	<u>7301</u>	<u>0.4830</u>	<u>0.4187</u>
<u>6801</u>	<u>0.6947</u>	<u>0.4762</u>	<u>7302</u>	<u>0.9645</u>	<u>0.8427</u>
<u>6802</u>	<u>0.5344</u>	<u>0.4384</u>	<u>7307</u>	<u>0.4597</u>	<u>0.4214</u>
<u>6803</u>	<u>1.0751</u>	<u>0.4951</u>	<u>7308</u>	<u>0.3087</u>	<u>0.3690</u>
<u>6804</u>	<u>0.3131</u>	<u>0.2620</u>	<u>7309</u>	<u>0.2283</u>	<u>0.2551</u>
<u>6809</u>	<u>4.6022</u>	<u>4.8001</u>	<u>7400</u>	<u>1.6940</u>	<u>0.9449</u>
<u>6901</u>	<u>0.0000</u>	<u>0.0619</u>	((In calendar year 2008, the department will pay such dividends from the accident fund to employers not participating in the retrospective rating program during the period July 1, 2007, through December 31, 2007, as the department's actuaries determine to be necessary to equalize the proportion of losses funded between retro and nonretro employers.))		
<u>6902</u>	<u>1.2039</u>	<u>0.5354</u>	(AmENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)		
<u>6903</u>	<u>8.2570</u>	<u>4.4850</u>	WAC 296-17-89502 Industrial insurance accident fund, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.		
<u>6904</u>	<u>0.5186</u>	<u>0.2985</u>	Base Rates Effective January 1, ((2008)) 2009		
<u>6905</u>	<u>0.4324</u>	<u>0.3028</u>	<u>Class</u>	<u>Accident Fund</u>	<u>Medical Aid Fund</u>
<u>6906</u>	<u>0.0000</u>	<u>0.3028</u>	<u>((0540</u>	<u>0.0244</u>	<u>0.0118</u>
<u>6907</u>	<u>1.3282</u>	<u>1.0454</u>	<u>0541</u>	<u>0.0145</u>	<u>0.0066</u>
<u>6908</u>	<u>0.4708</u>	<u>0.3619</u>	<u>0550</u>	<u>0.0327</u>	<u>0.0131</u>
<u>6909</u>	<u>0.1132</u>	<u>0.1088</u>	<u>0551</u>	<u>0.0194</u>	<u>0.0077</u>
<u>7100</u>	<u>0.0319</u>	<u>0.0277</u>	<u>0540</u>	<u>0.0230</u>	<u>0.0121</u>
<u>7101</u>	<u>0.0248</u>	<u>0.0200</u>			<u>0.0006</u>
<u>7102</u>	<u>3.0489</u>	<u>4.9215</u>			
<u>7103</u>	<u>0.7006</u>	<u>0.4465</u>			
<u>7104</u>	<u>0.0307</u>	<u>0.0293</u>			
<u>7105</u>	<u>0.0311</u>	<u>0.0288</u>			
<u>7106</u>	<u>0.1931</u>	<u>0.1909</u>			
<u>7107</u>	<u>0.1990</u>	<u>0.2367</u>			
<u>7108</u>	<u>0.1788</u>	<u>0.1952</u>			
<u>7109</u>	<u>0.1289</u>	<u>0.1308</u>			
<u>7110</u>	<u>0.3673</u>	<u>0.2290</u>			
<u>7111</u>	<u>0.4592</u>	<u>0.2625</u>			
<u>7112</u>	<u>0.6442</u>	<u>0.5805</u>			

Base Rates Effective
January 1, ((2008)) 2009

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
<u>0541</u>	<u>0.0138</u>	<u>0.0066</u>	<u>0.0007</u>
<u>0550</u>	<u>0.0305</u>	<u>0.0132</u>	<u>0.0007</u>
<u>0551</u>	<u>0.0190</u>	<u>0.0078</u>	<u>0.0007</u>

((In calendar year 2008, the department will pay such dividends from the accident fund to employers not participating in the retrospective rating program during the period July 1, 2007, through December 31, 2007, as the department's actuaries determine to be necessary to equalize the proportion of losses funded between retro and nonretro employers.))

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-89504 Horse racing industry industrial insurance, medical aid, and supplemental pension by class.

Base Rates Effective
January 1, ((2008)) 2009

Class	Accident Fund	Medical Aid Fund	Supplemental Pension Fund
((6614	39*	20*	+
6615	284*	150*	+
6616	13*	6*	+
6617	100*	44*	+
6618	99*	25*	+
6622	526**	253**	+
6623	130**	54**	1))
6614	46*	48*	1
6615	302*	327*	1
6616	13*	11*	1
6617	103*	91*	1
6618	99*	50*	1
6622	501**	508**	1
6623	101**	83**	1

* These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

** These rates are calculated on a per 12 horse stalls for parimutuel race tracks and are base rated.

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-90492 Table I.

RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B
STANDARD PREMIUM SIZE RANGES
Effective January 1, ((2008)) 2009

Size Group Number	Standard Premium Range	
((63	\$4,761	-
62	5,752	-
61	6,908	-
60	8,220	-
59	9,724	-
58	11,446	-
57	13,380	-
56	15,590	-
55	17,930	-
54	20,400	-
53	23,000	-
52	25,750	-
51	28,630	-
50	31,640	-
49	34,810	-
48	38,130	-
47	41,490	-
46	44,870	-
45	48,580	-
44	52,700	-
43	57,290	-
42	62,370	-
41	68,070	-
40	74,440	-
39	81,560	-
38	89,590	-
37	98,690	-
36	108,930	-
35	119,900	-
34	131,800	-
33	145,000	-
32	159,400	-
31	175,400	-
30	192,000	-
29	210,500	-
28	231,300	-
27	255,000	-
26	282,400	-
25	313,900	-
24	350,100	-

RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B
 STANDARD PREMIUM SIZE RANGES
 Effective January 1, ((2008)) 2009

Size Group Number	Standard Premium Range
23	<u>392,500</u> - <u>442,399</u>
22	<u>442,400</u> - <u>500,799</u>
21	<u>500,800</u> - <u>570,699</u>
20	<u>570,700</u> - <u>654,899</u>
19	<u>654,900</u> - <u>755,999</u>
18	<u>756,000</u> - <u>880,499</u>
17	<u>880,500</u> - <u>1,035,699</u>
16	<u>1,035,700</u> - <u>1,258,999</u>
15	<u>1,259,000</u> - <u>1,567,999</u>
14	<u>1,568,000</u> - <u>2,003,999</u>
13	<u>2,004,000</u> - <u>2,560,999</u>
12	<u>2,561,000</u> - <u>3,270,999</u>
11	<u>3,271,000</u> - <u>4,334,999</u>
10	<u>4,335,000</u> - <u>6,003,999</u>
9	<u>6,004,000</u> - <u>8,654,999</u>
8	<u>8,655,000</u> - <u>12,539,999</u>
7	<u>12,540,000</u> - <u>18,469,999</u>
6	<u>18,470,000</u> - <u>28,709,999</u>
5	<u>28,710,000</u> - <u>45,319,999</u>
4	<u>45,320,000 & Over</u>)
63	<u>\$4,875</u> - <u>\$5,888</u>
62	<u>5,889</u> - <u>7,072</u>
61	<u>7,073</u> - <u>8,415</u>
60	<u>8,416</u> - <u>9,955</u>
59	<u>9,956</u> - <u>11,719</u>
58	<u>11,720</u> - <u>13,699</u>
57	<u>13,700</u> - <u>15,959</u>
56	<u>15,960</u> - <u>18,359</u>
55	<u>18,360</u> - <u>20,889</u>
54	<u>20,890</u> - <u>23,549</u>
53	<u>23,550</u> - <u>26,369</u>
52	<u>26,370</u> - <u>29,309</u>
51	<u>29,310</u> - <u>32,399</u>
50	<u>32,400</u> - <u>35,639</u>
49	<u>35,640</u> - <u>39,039</u>
48	<u>39,040</u> - <u>42,479</u>
47	<u>42,480</u> - <u>45,939</u>
46	<u>45,940</u> - <u>49,739</u>
45	<u>49,740</u> - <u>53,959</u>
44	<u>53,960</u> - <u>58,659</u>
43	<u>58,660</u> - <u>63,859</u>
42	<u>63,860</u> - <u>69,699</u>

RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B
 STANDARD PREMIUM SIZE RANGES
 Effective January 1, ((2008)) 2009

Size Group Number	Standard Premium Range
41	<u>69,700</u> - <u>76,220</u>
40	<u>76,220</u> - <u>83,510</u>
39	<u>83,510</u> - <u>91,730</u>
38	<u>91,730</u> - <u>101,000</u>
37	<u>101,000</u> - <u>111,500</u>
36	<u>111,500</u> - <u>122,800</u>
35	<u>122,800</u> - <u>135,000</u>
34	<u>135,000</u> - <u>148,500</u>
33	<u>148,500</u> - <u>163,199</u>
32	<u>163,200</u> - <u>179,600</u>
31	<u>179,600</u> - <u>196,600</u>
30	<u>196,600</u> - <u>215,500</u>
29	<u>215,500</u> - <u>236,800</u>
28	<u>236,800</u> - <u>261,100</u>
27	<u>261,100</u> - <u>289,200</u>
26	<u>289,200</u> - <u>321,399</u>
25	<u>321,400</u> - <u>358,499</u>
24	<u>358,500</u> - <u>401,900</u>
23	<u>401,900</u> - <u>453,000</u>
22	<u>453,000</u> - <u>512,799</u>
21	<u>512,800</u> - <u>584,299</u>
20	<u>584,300</u> - <u>670,599</u>
19	<u>670,600</u> - <u>774,099</u>
18	<u>774,100</u> - <u>901,499</u>
17	<u>901,500</u> - <u>1,059,999</u>
16	<u>1,060,000</u> - <u>1,288,999</u>
15	<u>1,289,000</u> - <u>1,604,999</u>
14	<u>1,605,000</u> - <u>2,051,999</u>
13	<u>2,052,000</u> - <u>2,621,999</u>
12	<u>2,622,000</u> - <u>3,348,999</u>
11	<u>3,349,000</u> - <u>4,438,999</u>
10	<u>4,439,000</u> - <u>6,147,999</u>
9	<u>6,148,000</u> - <u>8,861,999</u>
8	<u>8,862,000</u> - <u>12,839,999</u>
7	<u>12,840,000</u> - <u>18,909,999</u>
6	<u>18,910,000</u> - <u>29,399,999</u>
5	<u>29,400,000</u> - <u>46,399,999</u>
4	<u>46,400,000</u> - <u>99,999,999</u>
	<u>& Over</u>)

AMENDATORY SECTION (Amending WSR 07-24-046, filed 12/1/07, effective 1/1/08)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of ((39.4)) 41.8 mils (((0.0394)) \$0.0418) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed. The amount of money so retained from the employee shall be matched in an equal amount by each employer, except as otherwise provided in these rules, all such moneys shall be remitted to the department on or before the last day of January, April, July and October of each year for the preceding calendar quarter, provided self-insured employers shall remit to the department as provided under WAC 296-15-060. All such moneys shall be deposited in the supplemental pension fund.

AMENDATORY SECTION (Amending Order 77-27, filed 11/30/77, effective 1/1/78)

WAC 296-17-865 Experience modification limitations. ((1) Notwithstanding the experience modification otherwise obtained in this manual,)) No employer's experience modification factor shall increase or decrease by more than ((25%)) twenty-five percent during any one year ((except as provided in subparagraph (2) below.))

(2) The 25% limitation on the change in the experience modification shall not apply in the following cases:

(a) In cases where it would cause an employer with better than average experience during the experience period to receive an experience modification greater than 1.00.

(b) In cases where it would cause an employer with worse than average experience during the experience period to receive a), as calculated according to WAC 296-17-855. However, if an employer's experience modification factor is calculated to be below 1.00 without this twenty-five percent limitation and that employer had an experience modification factor greater than 1.3333 in the previous year, then the experience modification ((less than 1.00.))

In the above specified cases the employer's modification factor shall be ((allowed to decrease or to increase, as the case may be;)) set to 1.00.

WSR 08-24-083

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

(Division of Alcohol and Substance Abuse)

[Filed December 1, 2008, 4:02 p.m., effective January 1, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The division of alcohol and substance abuse (DASA) is amending, repealing and developing a new section of chapter 388-805 WAC, Certification requirements for chemical dependency service providers, establishing the level of quality and patient care standards for chemical dependency service providers seeking certification by DSHS/DASA.

DASA [is] amending chapter 388-805 WAC. The proposed new rule amendment revisions will include:

1. Adding and expanding definitions in WAC 388-805-005 for "critical incidents" and "screening and brief intervention."

2. Changing the definition in WAC 388-805-005 to "community relations plan and opiate substitution treatment program" to reflect the federal rule and the guidelines for accreditation reference changes.

3. Adding language for a new service in WAC 388-805-010 for "screening and brief intervention."

4. Correcting a typo in WAC 388-805-030 from SAM-SHA to SAMHSA.

5. Further defining the legislative authority in WAC 388-805-030 to include "county, city, or tribal," so it is congruent with the rest of the chapter.

6. Expanding the requirements to maintain agency certification in WAC 388-805-100 to include "transfer summary," references for "transfer summary," and reformatting of the section.

7. Correcting the references for a "sample floor plan" in WAC 388-805-110.

8. Reformatting WAC 388-805-145, "key responsibilities required of an agency administrator."

9. Adding language in WAC 388-805-150 requiring an opiate substitution treatment program to report the death of a patient to the department.

10. Reformatting in WAC 388-805-205, "agency personnel file requirements."

11. Adding new language in WAC 388-805-300, "agency clinical manual," that requires that clinical supervisors have documentation of their competency, to document record reviews, allows record reviews to be done semi-annually instead of quarterly, and to ensure continued competency of each chemical dependency professional (CDP).

12. Adding language in WAC 388-805-310, "requirements for chemical dependency assessments," to include evaluation of parental and sibling alcohol and other drug use in youth assessments, moves WAC 388-805-815 requirements to WAC 388-805-310, and adds new language for persons charged with a violation under RCW 46.61.502 or 46.61.504. These requirements for persons with an initial finding other than substance dependence would include:

- a. A criminal case history and police report or documentation of efforts to include this information.

- b. Results of a urinalysis or drug test at the time of the assessment or documentation of efforts to include this information.

13. Removing the word "transfer" from WAC 388-805-315.

14. Adding language to WAC 388-805-620, requirements for outpatient services, to clarify requirements. An assessment is to be conducted prior to admission and the development [of] an individualized treatment plan prior to the patient's participation in treatment.

15. Removing the word "intensive" from WAC 388-805-625.

16. Adding language to WAC 388-805-710 to reflect the federal requirements in 42 C.F.R. Part 8.12 regarding periodic assessment.

17. Eliminating language from WAC 388-805-715 to reflect the federal notice regarding the use of levomethadyl acetate (LAAM).

18. Adding language to WAC 388-805-810 requirements for DUI assessment providers from WAC 388-805-815 to indicate that programs must limit persons who have been arrested under chapter 46.61 RCW.

19. Eliminating WAC 388-805-815 and moving content to WAC 388-805-310 and 388-805-810.

20. Adding new WAC 388-805-855 for the requirements for "screening and brief intervention services."

Amending WAC 388-805-005 What definitions are important throughout this chapter?, 388-805-010 What chemical dependency services are certified by the department?, 388-805-030 What are the requirements for opiate substitution treatment program certification?, 388-805-100 What do I need to do to maintain agency certification?, 388-805-110 What do I do to relocate or remodel a facility?, 388-805-130 How does the department suspend or revoke certification?, 388-805-145 What are the key responsibilities required of an agency administrator?, 388-805-150 What must be included in an agency administrative manual?, 388-805-205 What are agency personnel file requirements?, 388-805-300 What must be included in the agency clinical manual?, 388-805-310 What are the requirements for chemical dependency assessments?, 388-805-315 What are the requirements for treatment, continuing care, transfer, and discharge plans?, 388-805-620 What are the requirements for outpatient services?, 388-805-625 What are the requirements for outpatient services for persons subject to RCW 46.61.-5056?, 388-805-710 What are the requirements for opiate substitution medical management?, 388-805-715 What are the requirements for opiate substitution medication management? and 388-805-810 What are the requirements for DUI assessment providers?; repealing WAC 388-805-815 What are the requirements for DUI assessment services?; and new WAC 388-805-855 What are the requirements for screening and brief intervention services?

Citation of Existing Rules Affected by this Order: Repealing WAC 388-805-815; and amending WAC 388-805-005, 388-805-010, 388-805-030, 388-805-100, 388-805-110, 388-805-130, 388-805-145, 388-805-150, 388-805-205, 388-805-300, 388-805-310, 388-805-315, 388-805-620, 388-805-625, 388-805-710, 388-805-715, and 388-805-810.

Statutory Authority for Adoption: RCW 70.96A.040.

Other Authority: Chapter 70.96A RCW and 42 C.F.R. Part 8.

Adopted under notice filed as WSR 08-15-106 on July 18, 2008.

A final cost-benefit analysis is available by contacting Deb Cummins, Certification, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 725-3716, toll free 1-877-301-4557, fax (360) 586-0343, e-mail cummida@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 16, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 17, Repealed 1.

Date Adopted: December 1, 2008.

Robin Arnold-Williams
Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 09-01 issue of the Register.

WSR 08-24-093

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed December 2, 2008, 11:00 a.m., effective January 2, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule is to provide county assessors with the rate of interest and property tax component used in valuing farm and agricultural land classified under chapter 84.34 RCW (the open space program). The rule is being amended to update the interest rate and property tax component used to value farm and agricultural land classified under chapter 84.34 RCW. The amendment provides information that local taxing officials need to value classified farm and agricultural land during assessment year 2009.

Citation of Existing Rules Affected by this Order: Amending WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component.

Statutory Authority for Adoption: RCW 84.34.065 and 84.34.141.

Adopted under notice filed as WSR 08-19-090 on September 16, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 2, 2008.

Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-04-051, filed 1/31/08, effective 3/2/08)

WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component. For assessment year ((2008)) 2009, the interest rate and the property tax component that are to be used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is ((7.60)) 7.69 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	((+.26)) <u>1.29</u>	Lewis	((+.04)) <u>0.96</u>
Asotin	((+.33)) <u>1.25</u>	Lincoln	((+.24)) <u>1.18</u>
Benton	((+.25)) <u>1.20</u>	Mason	((+.14)) <u>0.99</u>
Chelan	((+.26)) <u>1.10</u>	Okanogan	((+.07)) <u>1.04</u>
Clallam	((+.86)) <u>0.82</u>	Pacific	((+.31)) <u>1.20</u>
Clark	((+.03)) <u>0.98</u>	Pend Oreille	((-.97)) <u>1.01</u>
Columbia	((+.17)) <u>1.13</u>	Pierce	((+.17)) <u>1.08</u>
Cowlitz	((+.15)) <u>1.09</u>	San Juan	((-.61)) <u>0.55</u>
Douglas	((+.22)) <u>1.13</u>	Skagit	((-.99)) <u>0.90</u>
Ferry	((-.96)) <u>0.90</u>	Skamania	((-.89)) <u>0.84</u>
Franklin	((+.42)) <u>1.38</u>	Snohomish	((-.99)) <u>0.89</u>
Garfield	((+.17)) <u>1.10</u>	Spokane	((+.28)) <u>1.13</u>
Grant	((+.35)) <u>1.31</u>	Stevens	((-.95)) <u>0.99</u>
Grays Harbor	((+.33)) <u>1.14</u>	Thurston	((+.12)) <u>0.98</u>
Island	((-.75)) <u>0.68</u>	Wahkiakum	((-.96)) <u>0.85</u>
Jefferson	((-.93)) <u>0.82</u>	Walla Walla	((+.38)) <u>1.26</u>
King	((+.00)) <u>0.94</u>	Whatcom	((+.05)) <u>0.99</u>
Kitsap	((-.96)) <u>0.88</u>	Whitman	((+.44)) <u>1.36</u>
Kittitas	((-.92)) <u>0.84</u>	Yakima	((+.22)) <u>1.15</u>
Klickitat	((+.09)) <u>1.00</u>		

**WSR 08-24-094
PERMANENT RULES
DEPARTMENT OF REVENUE**

[Filed December 2, 2008, 11:01 a.m., effective January 2, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To provide the rate of interest that will be included when property taxes paid in 2009 are refunded in subsequent years. The rates in interest reflected in this rule are included when property taxes are refunded. The rates are shown in chronological order with reference to the year in which the property taxes were paid. The rule is being revised to provide the rate of interest for treasury bill auction year 2008, which is used as a basis for refunding property taxes paid in 2009 that are subsequently refunded.

Citation of Existing Rules Affected by this Order:
Amending WAC 458-18-220 Refunds—Rate of interest.

Statutory Authority for Adoption: RCW 84.69.100.

Adopted under notice filed as WSR 08-19-089 on September 16, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 2, 2008.

Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-24-037, filed 11/30/07, effective 12/31/07)

WAC 458-18-220 Refunds—Rate of interest. The following rates of interest shall apply on refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates shall also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid. The rate thus determined shall be applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid	Auction Year	Rate
<u>1984</u>	<u>1983</u>	<u>9.29%</u>
1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%
1995	1994	4.92%
1996	1995	5.71%
1997	1996	5.22%
1998	1997	5.14%
1999	1998	5.06%
2000	1999	4.96%
2001	2000	5.98%
2002	2001	3.50%
2003	2002	1.73%
2004	2003	0.95%
2005	2004	1.73%

Year tax paid	Auction Year	Rate
2006	2005	3.33%
2007	2006	5.09%
2008	2007	4.81%
<u>2009</u>	<u>2008</u>	<u>2.14%</u>

WSR 08-24-095
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed December 2, 2008, 11:42 a.m., effective January 2, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules define what is, and is not, considered a "sale" of real property for purposes of the real estate excise tax (REET), and explain exemptions from REET and the documentation requirements necessary to claim those exemptions. These rules have been amended as follows:

- WAC 458-61A-202 - recognizes SSB 6851 (chapter 269, Laws of 2008), which identifies specific documentation requirements in order to receive an exemption for the community property interest of a decedent that is transferred to a surviving spouse or surviving domestic partner;
- WAC 458-61A-203 - recognizes 2SHB 3104 (chapter 6, Laws of 2008), which expanded the rights, privileges, obligations, and liabilities of domestic partners and domestic partnerships registered under chapter 26.60 RCW; and
- WAC 458-61A-102 - recognizes 2SHB 3104 (chapter 6, Laws of 2008); and E2SHB 1621 (chapter 116, Laws of 2008), which provides a REET exemption for the sale of a manufactured/mobile home community to certain organizations, including but not limited to qualified tenant organizations, local governments, or non-profit community or neighborhood-based organizations.

Citation of Existing Rules Affected by this Order: Amending WAC 458-61A-102 Real estate excise tax—Definitions, 458-61A-202 Real estate excise tax—Inheritance or devise (describes requirements for claiming exemption from REET under this rule), and 458-61A-203 Real estate excise tax—Community property, dissolution of marriage, legal separation, decree of invalidity.

Statutory Authority for Adoption: RCW 82.45.150.

Adopted under notice filed as WSR 08-19-087 on September 16, 2008.

Changes Other than Editing from Proposed to Adopted Version: The following definition of "domestic partnership," a term used elsewhere in chapter 458-61A WAC, has been added as subsection (7) of WAC 458-61A-102, with the following subsections renumbered: "Domestic partner" means one of two adults who are "state registered domestic partners" as defined in RCW 26.60.020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: December 2, 2008.

Alan R. Lynn
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-23-093, filed 11/16/05, effective 12/17/05)

WAC 458-61A-102 Definitions. For the purposes of chapter 458-61A WAC, the following definitions apply unless the context requires otherwise:

(1) "**Affidavit**" means the real estate excise tax affidavit provided by the department for use by taxpayers in reporting transfers of real property. Both the seller/grantor and the buyer/grantee, or their agents, sign the affidavit under penalty of perjury. The term also includes the form used to report to the department transfers and acquisitions of a controlling interest in an entity owning real property in this state under WAC 458-61A-101.

(2) "**Consideration**" means money or anything of value, either tangible or intangible, paid or delivered, or contracted to be paid or delivered, including performance of services, in return for the transfer of real property. The term includes the amount of any lien, mortgage, contract indebtedness, or other encumbrance, given to secure the purchase price, or any part thereof, or remaining unpaid on the property at the time of sale. For example, Lee purchases a home for \$250,000. He puts down \$50,000, and finances the balance of \$200,000. The full consideration paid for the house is \$250,000.

(a) "Consideration" includes the issue of an ownership interest in any entity in exchange for a transfer of real property to the entity. For example, if Julie transfers title to 20 acres of commercial property to Smith Development, LLC in exchange for a 50% ownership interest in the company, that constitutes consideration for the transfer. In the case of partnerships, consideration includes the increase in the capital account of the partner made as a result of the partner's transfer of real property to the partnership, unless the transfer is otherwise specifically exempt under WAC 458-61A-211 or 458-61A-212.

(b) "Consideration" includes the assumption of an underlying debt on the property by the buyer at the time of transfer. For example, Ben buys a residence, valued at \$300,000, from Liza. Liza was purchasing the property on a real estate contract that has an outstanding balance of \$175,000. Ben gives Liza \$125,000 in cash and he assumes the obligation on the real estate contract, which Liza assigns to him. Real estate

excise tax is due on \$300,000, which is the total consideration for the sale.

(c) "Consideration" does not include the amount of any outstanding lien or encumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements. For example, Mel buys residential property for \$300,000. The title is encumbered by a lien for unpaid property taxes in the amount of \$12,000, and a lien for municipal sidewalk improvements in the amount of \$6,000. Although Mel will become liable for those liens in order to take title to the property, they are not considered part of the purchase price for the purpose of calculating real estate excise tax. The real estate excise tax is due only on the purchase price of \$300,000.

(3) "Controlling interest" means:

(a) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

(b) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity.

(4) "County" means the county treasurer or its agent.

(5) "**Date of sale**" means the date (normally shown on the instrument of conveyance or sale) that ownership of or title to real property, or control of the controlling interest in an entity that has a beneficial interest in real property, is delivered to the buyer/transferee in exchange for valuable consideration. In the case of a lease with option to purchase, the date of sale is the date when the purchase option is exercised and the property is transferred. "Date of sale," "date of transfer," "conveyance date," and "transaction date" all have the same meaning and may be used interchangeably in this chapter. The real estate excise tax is due on the date of sale.

(6) "Department" means the department of revenue.

(7) "**Domestic partner**" means one of two adults who are "state registered domestic partners" as defined in RCW 26.60.020.

(8) "**Floating home**" means a building on a float used in whole or in part for human habitation as a single-family dwelling, which is not designed for self-propulsion by mechanical means or for propulsion by means of wind, and which is on the property tax rolls of the county in which it is located.

((8))) (9) "**Governmental entity**" means the United States, any agency or instrumentality of the United States, the state of Washington ("state"), any government agency, commission, college, university, or other department of the state, any political subdivision of the state, counties, any county agency, council, instrumentality, commission, office, or department, any Washington taxing district, municipal corporations of this state, and any office, council, department, or instrumentality of a Washington municipal corporation.

((9))) (10) "**Mining property**" is property containing or believed to contain metallic or nonmetallic minerals, and sold or leased under terms that require the buyer or lessee to conduct exploration or mining work thereon, and for no other purpose.

((10))) (11) "**Mobile home**" means a mobile home as defined by RCW 46.04.302.

((11))) (12) "**Mortgage**" has its ordinary meaning, and includes a "deed of trust" for the purposes of this chapter, unless the context clearly indicates otherwise. The term "underlying debt" may also be used to refer to a mortgage or other security interest.

((12))) (13) "**Park model trailer**" means a park model trailer as defined in RCW 46.04.622.

((13))) (14) "**Real estate**" or "**real property**" means any interest, estate, or beneficial interest in land or anything affixed to land, including the ownership interest or beneficial interest in any entity that owns land, or anything affixed to land, including standing timber and crops. The term includes condominiums and individual apartments for which the buyer receives a warranty deed. The term includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land. The term also includes any part of an irrigation system that is underground or affixed to the land. The term does not include irrigation equipment that is above the ground or that is not affixed to land. See RCW 82.12.020 for the tax treatment of sales of irrigation equipment that is not included in the definition of "real estate."

((14))) (15) "**Real estate contract**" or "**contract**" means any written agreement for the sale of real property in which legal title to the property is retained by the seller as security for the payment of the purchase price. The term does not include earnest money agreements or options to purchase real property.

((15))) (16) "**Sale**" means:

(a) Any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such a conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person at the purchaser's direction, and title to the property is retained by the vendor as security for the payment of the purchase price. The term includes the grant, relinquishment, or assignment of a life estate in property. The term also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

(b) The term "sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration. For the purposes of this chapter, all acquisitions of persons acting in concert are aggregated for the purpose of determining whether a transfer or acquisition of a controlling interest has taken place.

(c) The term "sale" also applies to successive sales of the same property. An owner of real property is subject to payment of the real estate excise tax upon the entry of each successive contract for the sale of the same parcel of property. For example, Bob owns a house that he sells to Sam on a real estate contract. Real estate excise tax is paid on the transfer from Bob to Sam. Sam makes several payments, until he becomes unemployed. Since Sam can no longer make pay-

ments on the property, he conveys it back to Bob. Bob then makes a subsequent sale of the house to Sally. Real estate excise tax is due on the transfer from Bob to Sally. See WAC 458-61A-209 for the tax implications on the conveyance from Sam back to Bob.

(d) The term "sale" does not include:

(i) Those real property transfers that are excluded from the definition of "sale" and exempted from the real estate excise tax under RCW 82.45.010(3) and this chapter, including transfers without valuable consideration.

(ii) The transfer of lots or graves in an established cemetery. An established cemetery is one that meets the requirements for ad valorem property tax exemption under chapter 84.36 RCW.

(iii) The transfer of an interest in real property merely to secure a debt or the assignment of a security interest, release of a security interest, satisfaction of a mortgage, or reconveyance under the terms of a mortgage or deed of trust.

(iv) A deed given to a purchaser under a real estate contract upon fulfillment of the terms of the contract provided that the proper tax was paid on the original transaction. The fulfillment deed must be stamped by the county treasurer as required by WAC 458-61A-301, and the stamp must show the affidavit number of the sale for which the deed is fulfilling.

(v) A qualified sale of a manufactured/mobile home community, as defined in RCW 59.20.030, that takes place on or after June 12, 2008, but before December 31, 2018.

(e) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not be taxable. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(i) John paid off his home mortgage and wants to get a loan to make improvements and buy a new car. John obtains an equity loan, secured by his home as collateral. This transaction is not subject to the real estate excise tax.

(ii) Bob purchased real property from Sam pursuant to a real estate contract. Real estate excise tax was paid on the purchase price at the time of the sale. Bob has now paid off the property, and Sam is issuing a fulfillment deed to Bob indicating that the real estate contract has been satisfied. The fulfillment deed from Sam to Bob is not subject to the real estate excise tax.

(iii) Diane has made the final payment on her mortgage, and the bank issues a full reconveyance of her property, indicating that the mortgage is paid in full. The reconveyance is not subject to the real estate excise tax.

(iv) Bill is refinancing his mortgage for a lower interest rate. There is a balloon payment on the new loan that will require that he refinance again in five years. Neither transaction is subject to the real estate excise tax.

((16)) (17) "Seller" means any individual, receiver, assignee, trustee for a deed of trust, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, limited liability company, business trust, municipal corporation, quasi municipal corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or oth-

erwise, but it does not include the United States or the state of Washington. The term "grantor" is used interchangeably with the term "seller" in this chapter and has the same meaning for purposes of the real estate excise tax.

((17)) (18) "Selling price" means the true and fair value of the property conveyed. There is a rebuttable presumption that the true and fair value is equal to the total consideration paid or contracted to be paid to the seller or to another person for the seller's benefit.

(a) When the price paid does not accurately reflect the true and fair value of the property, one of the following methods may be used to determine the true and fair value:

(i) A fair market appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made under section 1060 of the Internal Revenue Code of 1986, as amended.

(b) When the true and fair value of the property at the time of sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained in the county property tax rolls at the time of sale will be used as the selling price. RCW 82.45.030.

(c) When the sale is of a partial interest in real property, the principal balance of any debt remaining unpaid at the time of sale will be multiplied by the percentage of ownership transferred, and that amount added to any other consideration to determine the selling price.

(d) In the case of a lease with option to purchase, the selling price is the true and fair value of the property conveyed at the time the option is exercised.

AMENDATORY SECTION (Amending WSR 05-23-093, filed 11/16/05, effective 12/17/05)

WAC 458-61A-202 Inheritance or devise. (1) **Introduction.** Transfers of real property by inheritance or devise are not subject to the real estate excise tax. For the purpose of this exemption, it does not matter whether the real property transferred was encumbered by underlying debt at the time it was inherited or devised.

(2) Nonpro rata distributions. A nonpro rata distribution is one in which the transfer of real property to the heirs or devisees may not be in proportion to their interests. For example, Aunt Mary wills her entire estate equally to her three nieces. The estate consists of her primary residence, a cottage at the ocean, and significant cash assets, among other things. Rather than take title to the two parcels of real estate in all three names, the estate may be distributed by deeding the primary residence to Meg, the oceanfront property to Beth, and the majority of the cash assets to Jo. Such distribution by a personal representative of a probated estate or by the trustee of a trust is not subject to the real estate excise tax if the transfer is authorized under the nonintervention powers of a personal representative under RCW 11.68.090 or under the nonpro rata distribution powers of a trustee under RCW 11.98.070(15), if no consideration is given to the personal representative or the trustee for the transfer. For the purpose of this section, consideration does not include the indebtedness balance of any real property that is encumbered by a security lien.

(3) Subsequent transfers. A transfer of property from an heir to a third party is subject to the real estate excise tax. Examples:

(a) Steve inherits real property from his mother's estate. He sells the property to his son for \$50,000. The transfer of the property from the estate to Steve is exempt from real estate excise tax. The subsequent sale of the property to his son is a taxable event, and tax is due based upon the full sales price of \$50,000.

(b) Susan inherits real property from her father's estate. She decides to sell it to a friend on a real estate contract for \$100,000. Tax is due on the \$100,000.

(c) Sheri and her two sisters inherit their father's home, valued at \$180,000, in equal portions. Sheri wants sole ownership of the home but there are not "in-kind" assets of sufficient value to be distributed by the personal representative to her two sisters in a nonpro rata distribution. In order to take title directly from the personal representative, Sheri pays each of her sisters \$60,000, and they quitclaim their right to the property under the will. Tax is due on the total of \$120,000 paid for the property.

(4) Community property or right of survivorship. The transfer of real property to a surviving spouse in accordance with a community property agreement or a survivorship clause is not subject to real estate excise tax.

(5) Joint tenants. The transfer of real property upon the death of a joint tenant to the remaining joint tenants under right of survivorship is not subject to the real estate excise tax.

(6) Life estates and remainder interests. The conveyance of a life estate to the grantor with a remainder interest to another party is not a taxable transfer if no consideration passes. For example, Nate and Libby convey their property to their son, Rex, retaining a life estate for themselves. The transaction is not subject to real estate excise tax because Rex pays no consideration. Upon the deaths of Nate and Libby, the title will vest in Rex and no real estate excise tax is due. However, if Nate and Libby convey their property to Rex, retaining a life estate for themselves, and Rex pays any consideration for his future interest, the transaction is taxable. Tax is due on the total consideration paid.

(7) Documentation. In order to claim this exemption, the following documentation must be provided:

(a) **Community property agreement.** If the property is being transferred under the terms of a community property agreement, copies of the recorded agreement and certified copy of the death certificate;

(b) **Trusts.** If property is being transferred under the terms of a testamentary trust without probate, a certified copy of the death certificate, and a copy of the trust agreement showing the authority of the grantor;

(c) **Probate.** In the case of a probated will, a certified copy of the letters testamentary, or in the case of intestate administration, a certified copy of the letters of administration, showing that the grantor is the court appointed executor/executrix or administrator;

(d) **Joint tenants and remainder interests.** A certified copy of the death certificate is recorded to perfect title;

(e) **((Other.)) Court order.** If the property is being transferred pursuant to a court order, a certified copy of the

court order requiring the transfer of property, and confirming that the grantor is required to do so under the terms of the order.

(f) Other. If the community property interest of the decedent is being transferred to a surviving spouse or surviving domestic partner absent the documentation set forth in (a) through (e) of this subsection, a certified copy of the death certificate and a signed affidavit from the surviving spouse or surviving domestic partner affirming that he or she is the sole and rightful heir of the property.

AMENDATORY SECTION (Amending WSR 05-23-093, filed 11/16/05, effective 12/17/05)

WAC 458-61A-203 Community property, dissolution of marriage or domestic partnership, legal separation, decree of invalidity. (1) **Community property.** Transfers from one spouse or domestic partner to the other that establish or separate community property are not subject to the real estate excise tax.

(2) **Court decree.** The real estate excise tax does not apply to any transfer, conveyance, or assignment of property or interest in property from one spouse or domestic partner to the other in fulfillment of a settlement agreement incident to a decree of dissolution, declaration of invalidity, or legal separation.

(3) **Transfers to third parties.** A sale of real property by either one or both spouses or domestic partners to a third party is subject to the real estate excise tax, regardless of whether the sale is pursuant to the terms of a decree of dissolution, declaration of invalidity, or legal separation.

(4) **Former spouses or domestic partners.** Transfers of real property between ex-spouses or former domestic partners that are independent of any settlement agreement incident to their decree of dissolution or decree of invalidity are subject to the real estate excise tax, unless otherwise exempt under this chapter.

WSR 08-24-101

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed December 2, 2008, 1:58 p.m., effective January 2, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 296-127-018 Coverage and exemptions of workers involved in the production and delivery of gravel, concrete, asphalt, or similar materials. During the last decade the prevailing wage program has seen a number of court decisions identify the extent to which prevailing wages are required to be paid for incorporation and delivery of material on public works projects. In particular, the recent *Silver-streak* case (2007), after several years of court action, clarified coverage for the delivery and incorporation of fill material via belly dump and end-dump trucks. In addition, a series of other published cases (*Heller, Superior Asphalt 1 & 2*) provided coverage for repairing and maintaining machinery and the delivery and incorporation of asphalt, sand, dirt, gravel, and crushed rock.

A June 1999 department policy pertaining to the delivery of wet concrete exempts that type of delivery and incorporation from prevailing wage coverage unless the workers operate machinery or use tools that screed, float, or put a finish on the concrete. As a result, the coverage of concrete work is treated differently from other delivery and incorporation work. This policy was developed in response to an unpublished court case (*Holroyd* 1999) and was put in place prior to the rulings of the court in *Silverstreak* and in *Superior Asphalt* 2. The June 1999 policy pertains to the existing version of WAC 296-127-018 and will be superseded by this rule making. One change implemented through this rule making is that the delivery of wet cement upon a public works project will be subject to prevailing wage because it amounts to incorporation of material.

It is the department's intention, through the rule process, to clarify the coverage of production and delivery services and make the coverage of work and payment of wages consistent with published case law and chapter 39.12 RCW's requirement that all work upon public works is paid at prevailing wage rates. The department also seeks to ensure businesses do not encounter unanticipated costs due to a lack of understanding on coverage requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 296-127-018.

Statutory Authority for Adoption: Chapter 39.12 RCW, RCW 43.22.051 and 43.22.270.

Adopted under notice filed as WSR 08-19-085 on September 16, 2008.

A final cost-benefit analysis is available by contacting Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail yous235@lni.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 2, 2008.

Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 92-01-104 and 92-08-101, filed 12/18/91 and 4/1/92, effective 8/31/92)

WAC 296-127-018 Coverage and exemptions of workers involved in the production and delivery of gravel, concrete, asphalt, or similar materials. (1) The materials covered under this section ((are)) include but are

not limited to: Sand, gravel, crushed rock, concrete ((mix)), asphalt, or other similar materials.

((1) Workers are subject to the provisions of chapter 39.12 RCW when they are employed by a contractor as defined by WAC 296-127-010 (5)(e) and:

(a) They are engaged for a public works project in the production of the above-listed materials in a sand or gravel pit, rock quarry, concrete mixing plant, or other similar facility; or

(b) They are engaged in the transportation of the above-listed materials for use on a public works project, whether or not they perform any work on the project site.))

(2) All workers, regardless of by whom employed, are subject to the provisions of chapter 39.12 RCW when they perform any or all of the following functions:

(a) They deliver or discharge any of the above-listed materials to a public works project site ((and perform any spreading, leveling, rolling, or otherwise participate in any incorporation of the materials into the project; or))

(i) At one or more point(s) directly upon the location where the material will be incorporated into the project; or

(ii) At multiple points at the project; or

(iii) Adjacent to the location and coordinated with the incorporation of those materials.

(b) They wait at or near a public works project site to ((participate in the incorporation of any of the above-listed materials into the project; or)) perform any tasks subject to this section of the rule.

(c) They remove any materials from a public works construction site pursuant to contract requirements or specifications (e.g., excavated materials, materials from demolished structures, clean-up materials, etc.)((; or))

(d) They work in a materials production facility (e.g., batch plant, borrow pit, rock quarry, etc.) which is established for a public works project for the specific, but not necessarily exclusive, purpose of supplying materials for the project.

(e) They deliver concrete to a public works site regardless of the method of incorporation.

(f) They assist or participate in the incorporation of any materials into the public works project.

(3) All travel time that relates to the work covered under subsection (2) of this section requires the payment of prevailing wages. Travel time includes time spent waiting to load, loading, transporting, waiting to unload, and delivering materials. Travel time would include all time spent in travel in support of a public works project whether the vehicle is empty or full. For example, travel time spent returning to a supply source to obtain another load of material for use on a public works site or returning to the public works site to obtain another load of excavated material is time spent in travel that is subject to prevailing wage. Travel to a supply source, including travel from a public works site, to obtain materials for use on a private project would not be travel subject to the prevailing wage.

(4) Workers are not subject to the provisions of chapter 39.12 RCW when((;)) they deliver materials to a stockpile.

(a) ((The employees' duties do not include spreading, leveling, rolling, or otherwise participating in the incorporation of the delivered materials into a public works project,

~~and they are employed by an established materials supplier either in the production or delivery of sand, gravel, crushed rock, concrete mix, asphalt or other similar materials;~~

(b) They are employed by a common or contract carrier trucking company principally or exclusively engaged in the hauling or delivery of such products, and the employees' duties do not include spreading, leveling, rolling, or otherwise participating in the incorporation of the delivered materials into a public works project; or

(e) Their employer is engaged in the production and stockpiling of such materials for unspecified future use by the state of Washington or by municipalities as defined by RCW 39.04.010.

(4)) A "stockpile" is defined as materials delivered to a pile located away from the site of incorporation such that the stockpiled materials must be physically moved from the stockpile and transported to another location on the project site in order to be incorporated into the project.

(b) A stockpile does not include any of the functions described in subsection (2)(a) through (f) of this section; nor does a stockpile include materials delivered or distributed to multiple locations upon the project site; nor does a stockpile include materials dumped at the place of incorporation, or adjacent to the location and coordinated with the incorporation.

(5) The applicable prevailing wage rate shall be determined by the locality in which the work is performed. Workers subject to ((the provisions of chapter 39.12 RCW, as outlined in)) subsection (((+))) (2)(d) of this section, who produce such materials at an off-site facility shall be paid the applicable prevailing wage rates for the county in which the off-site facility is located. Workers subject to ((the provisions of chapter 39.12 RCW, as outlined in)) subsection (((+))) (2) of this section, who deliver such materials to a public works project site shall be paid the applicable prevailing wage rates for the county in which the public works project is located.

WSR 08-24-115 PERMANENT RULES DEPARTMENT OF REVENUE

[Filed December 3, 2008, 10:21 a.m., effective January 3, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Special benefit assessments for certain local improvements to farm and agricultural or timber land classified under chapter 84.34 RCW, the open space program, may be deferred by the land owner. If a land owner has chosen to defer these assessments, when the land is subsequently removed or withdrawn from classification the deferred special benefit assessments become due and payable with interest.

WAC 458-30-590 provides information about the rate of inflation that is used by county officials to calculate interest on deferred special benefit assessments when farm and agricultural or timber land is removed or withdrawn from classification under chapter 84.34 RCW. This rule is being amended to provide the rate of inflation for 2009 as required by RCW 84.34.310.

Citation of Existing Rules Affected by this Order: Amending WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation.

Statutory Authority for Adoption: RCW 84.34.360.

Adopted under notice filed as WSR 08-20-137 on October 1, 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 3, 2008.

Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-04-050, filed 1/31/08, effective 3/2/08)

WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation. (1) **Introduction.** This section sets forth the rates of inflation discussed in WAC 458-30-550. It also explains the department of revenue's obligation to annually publish a rate of inflation and the manner in which this rate is determined.

(2) **General duty of department—Basis for inflation rate.** Each year the department determines and publishes a rule establishing an annual rate of inflation. This rate of inflation is used in computing the interest that is assessed when farm and agricultural or timber land, which are exempt from special benefit assessments, is withdrawn or removed from current use classification.

(a) The rate of inflation is based upon the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. This rate is used to calculate the rate of interest collected on exempt special benefit assessments.

(b) The rate is published by December 31st of each year and applies to all withdrawals or removals from farm and agricultural or timber land classification that occur the following year.

(3) **Assessment of rate of interest.** An owner of classified farm and agricultural or timber land is liable for interest on the exempt special benefit assessment. Interest accrues from the date the local improvement district is created until the land is withdrawn or removed from classification. Interest accrues and is assessed in accordance with WAC 458-30-550.

(a) Interest is assessed only for the time (years and months) the land remains classified under RCW 84.34.020 (2) or (3).

(b) If the classified land is exempt from the special benefit assessment for more than one year, the annual inflation rates are used to calculate an average rate of interest. This average is determined by adding the inflation rate for each year the classified land was exempt from the special benefit assessment after the local improvement district was created. The sum of the inflation rates is then divided by the number of years involved to determine the applicable rate of interest.

(c) Example. A local improvement district for a domestic water supply system was created in January 1990 and the owner used the statutory exemption provided in RCW 84.34.320. On July 1, 1997, the land was removed from the farm and agricultural classification. An average interest rate was calculated using the inflation rates for 1990 through 1997. The owner was then notified of the amount of previously exempt special benefit assessment, plus the average interest rate.

(4) **Rates of inflation.** The rates of inflation used to calculate the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1977	6.5
1978	7.6	1979	11.3
1980	13.5	1981	10.3
1982	6.2	1983	3.2
1984	4.3	1985	3.5
1986	1.9	1987	3.7
1988	4.1	1989	4.8
1990	5.4	1991	4.2
1992	3.3	1993	2.7
1994	2.2	1995	2.3
1996	2.2	1997	2.1
1998	0.85	1999	1.42
2000	2.61	2001	1.89
2002	1.16	2003	1.84
2004	2.39	2005	2.54
2006	3.42	2007	2.08
<u>2008</u>	<u>4.527</u>		